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# PENNSYLVANIA BULLETIN

Volume 32  
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Number 43  
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**Agencies in this issue:**

The Courts  
Department of Banking  
Department of Conservation and Natural  
Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Labor and Industry  
Department of Transportation  
Environmental Hearing Board  
Fish and Boat Commission  
Independent Regulatory Review Commission  
Insurance Department  
Pennsylvania Intergovernmental Cooperation  
Authority  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
State Board for Certification of Water and  
Wastewater Systems Operators  
State Board of Cosmetology  
State Board of Dentistry  
State Board of Education

**Detailed list of contents appears inside.**



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**Latest Pennsylvania Code Reporter  
(Master Transmittal Sheet):**

**No. 335, October 2002**

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## ***Pennsylvania Bulletin***

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

## **Adoption, Amendment or Repeal of Regulations**

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

*Bulletin* before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

## **Citation to the *Pennsylvania Bulletin***

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

## ***Pennsylvania Code***

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

## **How to Find Documents**

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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### Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [ ] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

### Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2002.

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# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 9, 11, 13, 15 AND 17]

Adoption of New Pa.Rs.A.P. 120 and 1703 and  
Proposed Amendments to the Notes to  
Pa.Rs.A.P. 121, 907, 1112, 1311 and 1514

#### Internal Recommendation No. 36

The Appellate Court Procedural Rules Committee proposes to adopt new Rules 120 and 1703 and amend existing Rules 121, 907, 1112, 1311 and 1514 of the Pennsylvania Rules of Appellate Procedure. These proposals are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

All communications in reference to the proposed adoption and amendments should be sent not later than sixty days from the date of this publication to Dean R. Phillips, Esquire, P. O. Box 3010, 925 Harvest Drive, Blue Bell, PA 19422.

The Explanatory Comment published with this proposal has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

*By the Appellate Court Procedural Rules Committee*  
HONORABLE JOSEPH A. HUDOCK,  
*Chair*

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

##### ARTICLE I. PRELIMINARY PROVISIONS

##### CHAPTER 1. GENERAL PROVISIONS

##### DOCUMENTS GENERALLY

#### Rule 120. Entry of Appearance.

(a) **Filing.** Any counsel filing papers required or permitted to be filed in an appellate court must enter an appearance with the prothonotary of the appellate court unless that counsel has been previously noted on the docket as counsel pursuant to Rules 907(b), 1112(f), 1311(d) or 1514(d). New counsel appearing for a party after docketing pursuant to Rules 907(b), 1112(f), 1311(d) or 1514(d) shall file an entry of appearance simultaneous with or prior to the filing of any papers signed by new counsel. The entry of appearance shall specifically designate each party the attorney represents and the attorney shall file a certificate of service pursuant to Subdivision (d) of Rule 121 and Rule 122. Where new counsel enters an appearance on behalf of a party currently represented by counsel and there is no simultaneous withdrawal of appearance, new counsel shall serve the party that new counsel represents and all other counsel of record and file a certificate of service.

**Official Note:** See Subdivision (b) of Rule 907. Subdivision (f) of Rule 1112, Subdivision (d) of Rule 1311 and Subdivision (d) of Rule 1514.

#### Rule 121. Filing and Service.

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (d) of this rule, please note the requirements of Rule 120.

### ARTICLE II. APPELLATE PROCEDURE

#### CHAPTER 9. APPEALS FROM LOWER COURTS

#### Rule 907. Docketing of Appeal.

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

With respect to appearances by new counsel following the initial docketing appearances pursuant to Subdivision (b) of this rule, please note the requirements of Rule 120.

[ See Explanatory Note—1979 following Rule 905 ]

#### CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

##### PETITION FOR ALLOWANCE OF APPEAL

#### Rule 1112. Appeals by Allowance.

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

The U.S. Postal Service Form may be in substantially the following form:

\* \* \* \* \*

With regard to Subdivision (f) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 904 (Appointment of Counsel; Forma Pauperis).

With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (f) of this rule, please note the requirements of Rule 120.

#### CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION

#### Rule 1311. Interlocutory Appeals by Permission.

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (d) of this rule, please note the requirements of Rule 120.

## CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

### PETITION FOR REVIEW

#### Rule 1514. Filing and Service of the Petition for Review.

\* \* \* \* \*

#### Explanatory Note—1979

\* \* \* \* \*

With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (d) of this rule, please note the requirements of Rule 120.

## CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

### IN GENERAL

#### Rule 1703. Contents of Application for Stay.

In addition to the requirements set forth in Rule 123 (Application for Relief) an Application for stay pursuant to this chapter shall set forth the procedural posture of the case, including the result of any application for relief in any court below or federal court, the specific rule under which a stay or supersedeas is sought, grounds for relief, and, if expedited relief is sought, the nature of the emergency. The Application shall also identify and set forth the procedural posture of all related proceedings.

#### Explanatory Comment to Internal Recommendation No. 36

The proposed adoption of new Pa.R.A.P. 120 and 1703 and amendments to the Notes to Pa.R.A.P. 121, 907, 1112, 1311 and 1514 addresses the problem of representation of appellants where new counsel purports to represent an appellant while that party is already represented by existing counsel.

The proposed recommendation would adopt new Rule 120 (Entry of Appearance) requiring any counsel filing papers to enter an appearance designating who the party represents unless that counsel has been previously noted on the docket as counsel pursuant to Rules 121, 907(b), 1112(f), 1311(d) or 1514(d). The new Rule requires counsel who enters an appearance on behalf of a party who is already represented to serve the entry of appearance on the party and all other counsel of record.

This recommendation also proposes to adopt new Rule 1703 requiring any party seeking a stay to set forth the procedural posture of the case including: the result of any application for relief in any court below or federal court, the specific rule under which a stay or supersedeas is sought, grounds for relief, and, if expedited relief is sought, the nature of the emergency. The application shall also identify and set forth the procedural posture of all related proceedings. The Committee believes that this proposed new Rule will more easily address duplicative filings in multiple forums and orient counsel to their obligations to the Court when seeking emergency relief.

Finally, this recommendation proposes an internal mechanism which provides the Prothonotary with authority on a case-by-case basis to require warrants of attorney, entries of appearance and/or withdrawals of appearance similar to procedure utilized currently in the federal system. The Prothonotary would be given authority to issue a Rule requiring counsel to explain or justify conflicting representation and/or filings, where there is an

actual dispute regarding representation or where there are inconsistent multiple filings. It would then be necessary for the Court to resolve the dispute. This would allow the Prothonotary to assemble facts and legal issues for the Court on an expedited basis especially where it appears that counsel is not representing the actual wishes of appellant. This is particularly important where an appellant has filed a pro se filing challenging the actions of an attorney or next friend purportedly acting on his behalf, but actually acting against appellant's wishes. The Committee suggests that the Court provide latitude to the Prothonotary to review such pro se filings and forward them to the court in appropriate cases.

[Pa.B. Doc. No. 02-1870. Filed for public inspection October 25, 2002, 9:00 a.m.]

## PART I. RULES OF APPELLATE PROCEDURE

### [210 PA. CODE CHS. 17 AND 33]

#### Proposed Adoption of New Pa.R.A.P. 1702(d) and Pa.R.A.P. 3316; Recommendation No. 2 of 2002

#### Internal Recommendation No. 46

The Appellate Court Procedural Rules Committee proposes to adopt Pennsylvania Rule of Appellate Procedure 1702(d) and 3316. The amendment is being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

All communications in reference to the proposed new rules should be sent not later than sixty days from the date of this publication to the Appellate Court Procedural Rules Committee, P. O. Box 447, Ridley Park, PA 19078-0447.

The Explanatory Comment which appears in connection with the proposed new rules have been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

*By the Appellate Court Procedural Rules Committee*

HONORABLE JOSEPH A. HUDOCK,  
*Chair*

### Annex A

## TITLE 210. APPELLATE PROCEDURE

## PART I. RULES OF APPELLATE PROCEDURE

### ARTICLE II. APPELLATE PROCEDURE

#### CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

### IN GENERAL

#### Rule 1702. Stay Ancillary to Appeal.

\* \* \* \* \*

**(d) Stay of Execution.** Where a lower court enters an order granting or denying a stay of execution in a capital case, such order may be reviewed by the Supreme Court upon application pursuant to Rule 123. No appeal or petition for review need be filed in connection with an application for review of a stay order in a capital case.

#### Explanatory Comment—2002

See Pa.R.A.P. 3316 and Explanatory Comment.

ARTICLE III. MISCELLANEOUS PROVISIONS  
CHAPTER 33. BUSINESS OF THE SUPREME  
COURT

SUPERSEDEAS AND STAYS

**Rule 3316. Review of Stay of Execution Orders in Capital Cases.**

Where a court has entered an order granting or denying a stay of execution in a capital case, such order may be reviewed by the Supreme Court in the manner prescribed in Rule 1702(d).

**Explanatory Comment—2002**

The promulgation of new Rule 3316 addresses a gap in the Rules of Appellate Procedure such that there was no immediate vehicle for review of stays of execution orders granted or denied ancillary to PCRA petitions in capital cases. See *Commonwealth v. Morris*, 771 A.2d 721 (Pa. 2001). The new Rule permits an immediate appeal from an order granting or denying a stay pending a determination of the underlying PCRA. The new rule also permits immediate review of a grant or denial of a stay of execution without the filing of an appeal, in situations where the trial court grants a stay of execution but denies the PCRA and where the trial court grants or denies a stay of execution before determining the merits of the PCRA.

There may be unusual cases where the PCRA court does not grant a stay of execution until it denies a timely PCRA. In such cases, the Commonwealth may also take an immediate appeal from the denial of the stay of execution, even before the petitioner files an appeal from the denial of the PCRA. The PCRA court lacks jurisdiction to grant a stay of execution in connection with an untimely PCRA. See *Commonwealth v. Morris*, supra. However, the improper grant of a stay in connection with an untimely PCRA is also immediately reviewable under this Rule. See Pa.R.Crim.P. 909(a)(2).

[Pa.B. Doc. No. 02-1871. Filed for public inspection October 25, 2002, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE  
[210 PA. CODE CH. 19]

**Proposed Amendment to Pa.R.A.P. 1925(b); Recommendation No. 1 of 2002**

**Internal Recommendation No. 29**

The Appellate Court Procedural Rules Committee submits alternative proposals to amend Pa.R.A.P. 1925(b). These alternative proposals are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

All communications in reference to the proposed amendment should be sent not later than sixty days from the date of this publication to the Appellate Court Procedural Rules Committee, c/o Dean R. Phillips, Counsel, P. O. Box 3010, Blue Bell, PA 19422.

The Explanatory Comment which appears in connection with the proposed amendments has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

*By the Appellate Court Procedural Rules Committee*

HONORABLE JOSEPH A. HUDOCK,  
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 19. PREPARATION AND  
TRANSMISSION OF RECORD AND RELATED  
MATTERS

RECORD ON APPEAL FROM LOWER COURT

*Alternative One*

**Rule 1925. Opinion in Support of Order.**

\* \* \* \* \*

(b) *Direction to file statement of matters complained of.*—The lower court forthwith may enter an order directing the appellant to file of record in the lower court and serve on the trial judge a concise statement of the matters complained of on the appeal no later than 14 days after entry of such order. A failure to comply with such direction [ **may** ] **shall** be considered by the appellate court as a waiver of all objections to the order, ruling or other matter complained of.

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

The 2002 amendment to subdivision (b) conforms the Rule to the mandate of *Commonwealth v. Lord*, 719 A.2d 306 (Pa. 1998) which provides that where the Court has requested a 1925(b) statement, any issue not raised in the statement shall result in waiver of that issue.

*Alternative Two*

**Rule 1925. Opinion in Support of Order.**

\* \* \* \* \*

(b) *Direction to file statement of matters complained of.*—The lower court forthwith may enter an order directing the appellant to file of record in the lower court and serve on the trial judge a concise statement of the matters complained of on the appeal no later than 14 days after entry of such order. A failure to comply with such direction [ **may** ] **shall** be considered by the appellate court as a waiver of all objections to the order, ruling or other matter complained of **absent a showing of special circumstances justifying either the failure to file the statement or the failure to raise an issue in the statement.**

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

The 2002 amendment to subdivision (b) conforms the Rule to the mandate of *Commonwealth v. Lord*, 719 A.2d 306 (Pa. 1998) which provides that where the Court has requested a 1925(b) statement, any

issue not raised in the statement shall result in waiver of that issue. However, the 2002 amendment provides an exception to the strict waiver rule where an appellant can show special circumstances justifying the failure to raise an issue in the 1925(b) statement.

#### Explanatory Comment

##### Alternative One

The proposed amendment to Pa.R.A.P. 1925(b) would conform the Rule to the mandate in *Commonwealth v. Lord*, 719 A.2d 306 (Pa. 1998). The *Lord* decision provides that where the Court has requested a 1925(b) statement, any issues not raised in the statement shall result in waiver.

Despite the mandatory waiver provisions of subdivision (b), a challenge to the legality of a sentence in a criminal case is not waived by failure to raise the issue in a 1925(b) statement. Similarly, subject-matter jurisdiction is not a waivable issue and may be raised at any stage of a proceeding.

An appellate court may review issues which have not been raised in a 1925(b) statement or which have been inadequately raised, where the trial court has anticipated and addressed the issues in a 1925(a) opinion. Issues are not waived where an appellant has filed a late 1925(b) statement and the trial court addresses the issues in a 1925(a) opinion. However, where no 1925(b) statement is filed in response to the trial court's order, the issues are waived, even if the trial court issues an opinion pursuant to 1925(a).

##### Alternative Two

Alternative Two proposes an amendment to subdivision (b) of Pa.R.A.P. 1925 to conform the Rule to the mandate of *Commonwealth v. Lord*, 719 A.2d 306 (Pa. 1998). The *Lord* decision provides that where the Court has requested a 1925(b) statement, any issue not raised in that statement shall result in waiver of that issue. However, unlike Alternative One, the proposed amendment in Alternative Two provides an exception to the strict waiver rule, where an appellant can show special circumstances justifying the failure to raise an issue in the 1925(b) statement.

Despite the mandatory waiver provisions of subdivision (b), a challenge to the legality of a sentence in a criminal case is not waived by failure to raise the issue in a 1925(b) statement. Similarly, subject-matter jurisdiction is not a waivable issue and may be raised at any stage of a proceeding.

An appellate court may review issues which have not been raised in a 1925(b) statement or which have been inadequately raised, where the trial court has anticipated and addressed the issues in a 1925(a) opinion. Issues are not waived where an appellant has filed a late 1925(b) statement and the trial court addresses the issues in a 1925(a) opinion. However, where no 1925(b) statement is filed in response to the trial court's order, the issues are waived, even if the trial court issues an opinion pursuant to 1925(a).

[Pa.B. Doc. No. 02-1872. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CH. 200]

Promulgation of New Rule 212.4 Governing Eminent Domain; No. 376 Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 8th day of October, 2002, Rule 212.4 of the Pennsylvania Rules of Civil Procedure is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective January 1, 2003.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

##### Rule 212.4. Applicability of Rules. Eminent Domain

(a) The name of a valuation expert and his or her statement of valuation required to be served on the opposing party by Section 703(2) of the Eminent Domain Code shall be served within the time provided for the filing of a pre-trial statement by Rule 212.1. A party failing to comply with this rule shall be subject to the sanctions set forth in Rule 212.2(c).

(b) Section 703(2) of the Eminent Domain Code, 26 P. S. § 1-703(2), is suspended only insofar as it provides for the name and report of the valuation expert to be served at least ten days before the commencement of the trial.

#### Explanatory Comment

Section 1-703(2) of the Eminent Domain Code, 26 P. S. § 1-703(2),<sup>1</sup> requires that, if a valuation expert has not previously testified before the viewers, the party calling the expert must disclose the expert's name and serve a statement of his or her valuation of the property on the opposing party "at least ten days before the commencement of the trial." At the time this requirement was enacted, very few courts required the filing of an expert report prior to trial. The ten-day requirement for exchanging reports now provides less notice of the proposed expert testimony than is provided for in other civil actions.

Pa.R.C.P. 212.1 requires the filing of a pre-trial statement

(1) by the plaintiff not later than sixty days prior to the earliest trial date,

(2) by the defendant not later than thirty days prior to the earliest trial date, and

<sup>1</sup>§ 1-703. Trial in the court of common pleas on appeal

At the trial in court on appeal:

(1) \* \* \*

(2) If any valuation expert who has not previously testified before the viewers is to testify, the party calling him must disclose his name and serve a statement of his valuation of the property before and after the condemnation and his opinion of the highest and best use of the property before the condemnation and of any part thereof remaining after the condemnation, on the opposing party at least ten days before the commencement of the trial.

(3) \* \* \*

(3) by an additional defendant not later than fifteen days prior to the earliest trial date.

The pretrial statement pursuant to Rule 212.2(a) is required to contain "a list of the names and addresses of all person who may be called as witnesses by the party filing the statement" and "a copy of the written report . . . containing the opinion and the basis for the opinion of any person who may be called as an expert witness."

New Rule 212.4 has been added to the rules of civil procedure to conform the time for disclosing the name of a valuation expert and serving his or her statement of valuation to that of Rule 212.1. This new rule places eminent domain cases on a footing which corresponds to jury trials generally and fosters the salutary principles underlying the pre-trial rules.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.  
*Chair*

[Pa.B. Doc. No. 02-1873. Filed for public inspection October 25, 2002, 9:00 a.m.]

## PART I. GENERAL

### [231 PA. CODE CHS. 1910, 1920 AND 1930]

#### Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; No. 377 Civil Procedural Rules; Doc. No. 5

### Order

*Per Curiam:*

And Now, this 11th day of October, 2002, Rules 1910.10, 1910.19, 1920.73 and 1930.4 of the Pennsylvania Rules of Civil Procedure are amended as follows.

This order shall be processed in accordance with Pa. R.J.A. 103(b) and shall be effective immediately.

### Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

##### Rule 1910.10. Alternative Hearing Procedures.

\* \* \* \* \*

(b) The president judge or the administrative judge of Family Division of each county shall certify that all support proceedings in that county are conducted in accordance with either Rule 1910.11 or Rule 1910.12. The certification shall be filed with the Domestic Relations Procedural Rules Committee, and shall be substantially in the following form:

\* \* \* \* \*

**Official Note:** Pursuant to Rule 1910.10, the following counties have certified to the Domestic Relations Procedural Rules Committee that their support proceedings are conducted in accordance with the rule specified below.

\* \* \* \* \*

Cumberland [ 1910.11 ] 1910.12

\* \* \* \* \*

##### Rule 1910.19. Support. Modification. Termination. Guidelines as Substantial Change in Circumstances.

\* \* \* \* \*

(e) Within one year of the date a child who is the subject of a child support order reaches eighteen (18) years of age, the domestic relations section shall issue an emancipation inquiry and notice to the obligee, with a copy to the obligor, seeking the following information:

(1) confirmation of the child's date of birth, date of graduation or withdrawal from high school;

(2) whether the child has left the obligee's household and, if so, the date of departure;

(3) the existence of any agreement between the parties requiring payments for the benefit of the child after the child has reached age eighteen (18) or graduated from high school; and

(4) any special needs of the child which may be a basis for continuing support for that child beyond the child's eighteenth birthday or graduation from high school, whichever is last to occur

The notice shall advise the obligee that if the inquiry is not returned within thirty (30) days of mailing or if there is no agreement or the child does not have any special needs, the charging order may be modified or terminated by the court. When no other children are subjects of the child support order and the obligee either does not return the emancipation inquiry within thirty (30) days of its mailing or does not assert grounds for continuing support for the child, then the court shall have the authority to administratively terminate the child support charging order without further proceedings at any time on or after the last to occur of the date the last child reaches age eighteen (18) or graduates from high school. Termination of the charging order shall not affect any arrears accrued through the date of termination. The court shall have the authority to enter an order requiring the obligor to pay on arrears in an amount equal to the amount of the charging order until all arrears are paid.

If the order applies to another child or children and/or the obligee asserts that there is an agreement between the parties or that a child has special needs requiring continued support, then the domestic relations section may schedule a conference to determine if the charging order should be modified.

### Explanatory Comment—2002

Although support orders do not terminate automatically, many obligors are unaware of the necessity of filing a petition to terminate a child support order when the child becomes emancipated. As a result, old orders have continued to charge long after the subject child has become an adult. New subdivision (e) is intended to address this problem by giving the obligee notice of a proposed modification or termination of the order and the opportunity to object. If no objection is made, or if the obligee fails to respond with a reason to continue the order, the rule gives the court the authority to terminate or modify the charging order, depending upon whether or not other children are covered under the order.



## CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

### Rule 1920.73. Notice of Intention to Request Entry of Divorce Decree. Praecept to Transmit Record Forms.

\* \* \* \* \*

(b) The praecipe to transmit the record prescribed by Rule 1920.42 shall be in substantially the following form:

(Caption)

#### PRAECIPE TO TRANSMIT RECORD

\* \* \* \* \*

3. [ ( ) Complete either paragraph (a) or (b). ]

\* \* \* \* \*

5. [ ( ) Complete either (a) or (b). ]

\* \* \* \* \*

[ (c) ] Date defendant's Waiver of Notice was filed with the prothonotary: \_\_\_\_\_

(Attorney for) (PLAINTIFF)(DEFENDANT)

## CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

### Rule 1930.4. Service of Original Process in Domestic Relations Matters.

(a) *Persons Who May Serve.* Original process in all domestic relations matters may be served by the sheriff or a competent adult:

\* \* \* \* \*

(2) by handing a copy

(i) at the residence of the defendant to an adult member of the family with whom **[ he ] the defendant** resides; but if no adult member of the family is found, then to an adult person in charge of such residence; or

(ii) at the residence of the defendant to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which **[ he ] the defendant** resides; or

(iii) at any office or usual place of business of the defendant to **[ his ] the defendant's** agent or to the person for the time being in charge thereof.

\* \* \* \* \*

(b) *Service in Protection From Abuse Matters.* In Protection from Abuse matters only, original process may **also** be served by an adult **[ . ] using any means set forth in subdivision (a) above. If personal service cannot be completed within forty-eight (48) hours after a Protection From Abuse petition is filed, the court may, by special order as set forth in subdivision (a)(3) above, authorize service by another means including, but not limited to, service by mail pursuant to subdivision (c) of this rule.**

(c) *Service by Mail.* Except in Protection from Abuse matters **unless authorized by special order of court pursuant to subdivision (b) above**, original process may also be served by mailing the complaint and order to appear, if required, to the defendant's last known address by both regular and certified mail. Delivery of the certified mail must be restricted to addressee only, and a return receipt must be requested.

(1) If the certified mail is refused by defendant, but the regular mail is not returned within fifteen (15) days, service may be deemed complete.

\* \* \* \* \*

(d) *Acceptance of Service.* In lieu of service pursuant to this rule, the defendant or **[ his ] the defendant's** authorized agent may accept service of original process by filing with the prothonotary a separate document which shall be substantially in the following form:

\* \* \* \* \*

[Pa.B. Doc. No. 02-1874. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CARBON COUNTY

#### Offender Supervision Fees; No. 121 MI 02

#### Administrative Order 14—2002

*And Now*, this 10th day of October, 2002, pursuant to 18 P. S. Section 11.1102 (c), it is hereby

*Ordered and Deceed* that, effective January 1, 2003, the Court hereby *Increases* the Offender Supervision Fee to Thirty-Five Dollars (\$35.00) per month for all defendants placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment, unless the court finds that such fee should be reduced, waived, or deferred based on the offender's present inability to pay until the time they are released from the Program.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of this Administrative Order in the Clerk of Court's Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge*

[Pa.B. Doc. No. 02-1875. Filed for public inspection October 25, 2002, 9:00 a.m.]

# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Suspension

Notice is hereby given that Joel B. Rubinstein having been suspended from the practice of law in the State of New Jersey for a period of three months, the Supreme Court of Pennsylvania issued an Order dated October 10, 2002 suspending Joel B. Rubinstein from the practice of law in this Commonwealth for a period of three months, effective November 9, 2002. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Executive Director and Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 02-1876. Filed for public inspection October 25, 2002, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 22—EDUCATION

### STATE BOARD OF EDUCATION

#### [22 PA. CODE CH. 4]

#### High School Graduation Requirements

The State Board of Education (Board) amends § 4.24 (relating to high school graduation requirements) to read as set forth in Annex A. The Board is acting under authority of the Public School Code of 1949 (24 P.S. §§ 1-101—27-2702) and under mandate of section 32 of the act of June 29, 2002 (P.L. 524, No. 88) (Act 88).

The Board is submitting this final-omitted rulemaking as required by section 32 of Act 88. Section 32 of Act 88 states:

The State Board of Education shall adopt revisions to 22 Pa. Code § 4.24 (relating to high school graduation requirements) that, at a minimum, delete from the regulation the requirement that school districts affix to diplomas State Seals of Proficiency or Distinction. Due to the urgent need for an expedited but public regulatory process, the State Board of Education, in adopting such revised regulations, shall follow the procedures set forth in the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act, for the promulgation and review of final-omitted regulations.

This final-omitted rulemaking conforms to this mandate of the General Assembly.

#### *Purpose*

The purpose of amending § 4.24 is to: (1) remove the requirements for placing seals of proficiency and distinction on high school diplomas and noting this on student transcripts; (2) add requirements for school districts to issue certificates of proficiency or distinction, to be supplied by the Commonwealth, to students who score proficient or above on State-administered assessments; and (3) require the placement of Pennsylvania System of School Assessment (PSSA) scores on student transcripts starting in the 2003-04 school year.

#### *Response to Comments*

The amendments to § 4.24 did not undergo the proposed rulemaking process and are being submitted as a final-omitted rulemaking. Thus, there has been no formal public comment. However, a public process led to the Board's decision to amend § 4.24.

With the support of the Secretary of Education and the assistance of the Senate Education Committee, the Board's Council of Basic Education (Council) conducted a special forum on the issue of student rewards to discuss issues related to the current language of § 4.24 and the requirement to place seals of proficiency or distinction on high school diplomas beginning in the 2002-03 school year. Nine individuals representing higher education, local school boards, students, parents, school administrators and business joined the forum discussion. The forum participants generally agreed to recommend that the Board amend § 4.24 to remove the requirement of placing seals on diplomas and to replace it with a requirement that districts issue separate certificates to reward stu-

dents for performance on the State-administered PSSA but to include PSSA scores on student transcripts. The Board issued draft language reflecting the proposed amendments and mailed them to interested parties with an announcement that the Council would discuss the proposed change at its next meeting and allow time for members of the public to make comments during the meeting. Members of the public who provided comments at the Council meeting expressed views and concerns related to the possible impact of placing PSSA scores on the school transcripts of minority and poor children due to their historically poor performance on standardized tests.

At its meeting on May 16, 2002, the Board approved an amendment to § 4.24 that would require school districts to include PSSA scores on student transcripts, but implementation of this requirement was delayed by 1 year, until the 2003-04 school year. The intent of the Board is to motivate all students to put forth their best effort when taking the PSSA by raising the visibility and significance of individual student test results and by providing incentives for students who demonstrate proficiency or excellence in meeting the State academic standards.

Further deliberation of the merit of placing PSSA scores on transcripts will occur in the context of the scheduled review of the Chapter 4 (relating to academic standards and assessment) in its entirety in 2003.

#### *Affected Parties*

The final-omitted rulemaking will affect the students and professional employees of the public schools of this Commonwealth (including intermediate units, area vocational-technical schools, public charter and alternative schools).

#### *Cost and Paperwork Estimates*

The final-omitted rulemaking to § 4.24 will not substantially alter paperwork or cost requirements already in place under current § 4.24. Under current § 4.24, the Commonwealth would provide seals to districts to affix the seals to student diplomas. The final-omitted rulemaking would replace diploma seals with certificates provided to school districts by the Commonwealth. Districts would be responsible for affixing student names to the certificates and for distribution of certificates to eligible students. Districts are also currently responsible to note the award of seals of proficiency and distinction on student transcripts. Under the final-omitted rulemaking, this would be changed to require that the PSSA scores of students be placed on the student transcripts. The costs associated with noting award of a seal on student transcripts and noting PSSA scores on student transcripts are estimated to be comparable. It is also estimated that the cost associated with the human resources needed to meet the requirements is the same under both current and the final-omitted rulemaking.

#### *Effective Date*

The final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

The effectiveness of Chapter 4 (including § 4.24) will be reviewed by the Board in 2003, in accordance with the Board's policy and practice for reviewing all regulations of the Board. Thus, no sunset date is necessary.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on August 30, 2002, the Board submitted copies of this final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Education Committee and the Senate Education Committee. On the same date, the final-omitted rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, on September 4, 2002, this final-omitted rulemaking was deemed approved by the House Committee. On September 5, 2002, this final-omitted rulemaking was deemed approved by the Senate Committee. Under section 5.1(e) of the Regulatory Review Act, on September 26, 2002, IRRC met and approved this final-omitted rulemaking.

*Contact Person*

The official responsible for information on the final-omitted rulemaking is James Buckheit, Acting Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787, TDD (717) 787-7367.

*Findings*

The Board finds that:

(1) The rulemaking was submitted as final-omitted as required in section 32 of Act 88.

(2) The final-omitted rulemaking is necessary and appropriate for the administration of the Public School Code of 1949.

*Order*

The Board, acting under the authorizing statute, orders that:

(a) The regulations of the Board, 22 Pa. Code Chapter 4, are amended by amending § 4.24 to read as set forth at Annex A.

(b) The Executive Director will submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Executive Director of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order is effective upon publication in the *Pennsylvania Bulletin*.

JAMES BUCKHEIT,  
*Acting Executive Director*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 5145 (October 12, 2002).)

**Fiscal Note:** 6-278. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 22. EDUCATION**

**PART I. STATE BOARD OF EDUCATION**

**Subpart A. MISCELLANEOUS PROVISIONS**

**CHAPTER 4. ACADEMIC STANDARDS AND ASSESSMENT**

**CURRICULUM AND INSTRUCTION**

**§ 4.24. High school graduation requirements.**

(a) Each school district, including charter schools, shall specify requirements for graduation in the strategic plan

under § 4.13 (relating to strategic plans). Requirements shall include course completion and grades, completion of a culminating project and results of local assessments aligned with the academic standards. Beginning in the 2002-2003 school year, students shall demonstrate proficiency in reading, writing and mathematics on either the State assessments administered in grade 11 or 12 or local assessment aligned with academic standards and State assessments under § 4.52 (relating to local assessment system) at the proficient level or better to graduate. The purpose of the culminating project is to assure that students are able to apply, analyze, synthesize and evaluate information and communicate significant knowledge and understanding.

(b) Beginning in the 2002-2003 school year, students who attain a score at the proficient level on any State assessed discipline administered in grade 10, 11 or 12 shall be granted a Pennsylvania Certificate of Proficiency for that discipline. Students with disabilities who meet the required proficiency level on State assessments with appropriate accommodations shall be granted a Pennsylvania Certificate of Proficiency.

(c) Beginning in the 2002-2003 school year, students who attain a score at the advanced level of proficiency on any State assessed discipline administered in grade 10, 11 or 12 shall be granted a Pennsylvania Certificate of Distinction for that discipline. Students with disabilities who meet the required proficiency level on State assessments with appropriate accommodations shall be granted a Pennsylvania Certificate of Distinction.

(d) Each school district, including charter schools, shall describe in its strategic plan under § 4.13 how its planned instruction is designed to prepare students to meet the requirements of subsection (a).

(e) Children with disabilities who satisfactorily complete a special education program developed by an Individualized Education Program team under the Individuals with Disabilities Education Act and this part shall be granted and issued a regular high school diploma by the school district of residence. This subsection applies if the special education program of a child with a disability does not otherwise meet all requirements of this chapter. Children with disabilities who meet the required proficiency level on State assessments shall be granted the appropriate Certificate of Proficiency or Distinction.

(f) The Department will develop Pennsylvania Certificates of Proficiency and Distinction for each of the State assessed disciplines. The Department will distribute the certificates to each school district in sufficient quantity for the school district to issue to its students who have earned the Certificates. School districts shall enter student names on the appropriate certificate as described in subsections (b) and (c) and present the certificates to the student.

(g) The Department will develop, or cause to be developed, Certificates of Proficiency so as to acknowledge and recognize those students who attain a level of at least proficient in all State assessed disciplines. The certificates must be distinctive and differentiated from the certificates described in subsection (f). The certificates shall be awarded to students as appropriate in lieu of those prescribed in subsection (b).

(h) The Department will develop, or cause to be developed, Certificates of Distinction so as to acknowledge and recognize those students who attain a score at the advanced level of proficiency in all State assessed disciplines. The certificates must be distinctive and differenti-

ated from the certificates described in subsection (f). The certificates shall be awarded to students as appropriate in lieu of those prescribed in subsection (c).

(i) Beginning in the 2003-04 school year, PSSA scores in each assessed discipline shall be included on student transcripts and may be released only with the permission of the student and parent or guardian, or the student only if the student is 18 years of age or older.

(j) This section does not allow for the release of individual student PSSA scores to the Department or other Commonwealth entities in accordance with § 4.51(c) (relating to State assessment system).

[Pa.B. Doc. No. 02-1877. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Title 31—INSURANCE

### INSURANCE DEPARTMENT

#### [31 PA. CODE CH. 146b]

#### Privacy of Consumer Health Information

The Insurance Department (Department) hereby adopts Chapter 146b (relating to privacy of consumer health information) to read as set forth in Annex A.

##### *Statutory Authority*

This final-form rulemaking is adopted under sections 205, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), and under the guidance of section 648 of The Insurance Department Act of 1921 (40 P. S. § 288) (Act 40). Likewise, this final-form rulemaking is promulgated under the Department's rulemaking authority under the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.14). The authority is further explained in *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977), because the Insurance Commissioner has determined that the improper disclosure or marketing, or both, of nonpublic personal health information by members of the insurance industry constitutes an unfair method of competition and an unfair or deceptive act or practice.

##### *Comments and Response*

Notice of proposed rulemaking was published at 32 Pa.B. 1406 (March 16, 2002) with a 30-day comment period. During the 30-day comment period, comments were received from the Alliance of American Insurers (AAI), the American Council of Life Insurers (ACLI), the American Insurance Association (AIA), Blue Cross of Northeastern Pennsylvania, Capital Blue Cross (CBC), Highmark, Inc. (Highmark), Independence Blue Cross (IBC), the Insurance Federation of Pennsylvania, Inc. (IFP), the Managed Care Association of Pennsylvania (MCAP), the Pennsylvania Association of Mutual Insurance Companies (PAMIC) and the Pennsylvania Association of Non-Profit Homes for the Aging (PANPHA). During its regulatory review, the Independent Regulatory Review Commission (IRRC) submitted comments to the Department. The following is a response to those comments.

##### *General comments*

##### *Inconsistent with the Gramm-Leach-Bliley Act*

AAI commented that the proposed health privacy rulemaking is neither required by Federal law nor consistent

with the act of November 12, 1999 (Pub. L. No. 106-102, 113 Stat. 1338) known as the Gramm-Leach-Bliley Act (GLBA) (15 U.S.C.A. §§ 6801—6827) and the Federal privacy regulations that apply to depository institutions and securities entities. See, for example, 12 CFR Parts 40.1 and 216.1 (relating to privacy of consumer financial information; and privacy of consumer financial information (Regulation P)).

Although it is true that the Federal banking and securities regulations treat nonpublic personal health information in the same manner as nonpublic financial information by requiring only that consumers be provided with an opportunity to opt-out of a disclosure of their health information, section 507 of the GLBA (15 U.S.C.A. § 6807) explicitly allows states to afford “any person” greater protection than that provided in the GLBA or in the Federal privacy regulations promulgated under Title V of the GLBA (15 U.S.C.A. §§ 6801—6827). Therefore, the GLBA not only allows, but envisions, states providing broader insurance privacy protection to consumers, as well as affording privacy protection to classes of persons not addressed in the GLBA or the Federal privacy regulations. For this reason, this final-form rulemaking is not inconsistent with the GLBA.

##### *Section 146b.1*

With regard to its stated purpose, the proposed rulemaking used the term “affirmative consent” rather than “authorization,” which is used throughout the rulemaking. IBC and IFP both commented that the Department should change the reference in § 146b.1(a)(3) (relating to purpose) from “affirmative consent” to “authorization.”

The Department agrees with these comments and has made the requested change in this final-form rulemaking.

##### *Section 146b.2*

*Consumer*—With regard to the definition of “consumer,” IFP suggested that either workers’ compensation claimants be excluded in the definition, or the final-form rulemaking be clarified to state that it is not intended to modify the “existing information sharing practices” in the workers’ compensation industry. No explanation or description was provided as to what constitutes “existing information sharing practices.”

The Department has retained its inclusion of workers’ compensation insurance in this final-form rulemaking’s definition of “consumer.” As previously mentioned, section 507 of the GLBA explicitly allows states to afford “any person” greater protection than that provided in the GLBA or in the Federal privacy regulations promulgated under Title V of the GLBA. Therefore, the Department asserts that workers’ compensation claimants are properly within the scope of the privacy rulemaking.

In addition, it is important to note that claimants under a workers’ compensation insurance plan generally are unable to choose the licensees with whom they transact business. Rather, that choice is made by their employer, who is the policyholder in the workers’ compensation insurance plan. Unlike other types of consumers who are able to choose the licensees with whom they transact business, workers’ compensation insurance claimants are unable to “shop around” for a licensee that has a privacy policy that suits their needs. Therefore, it is critical that these persons be afforded the privacy protections instituted by this final-form rulemaking.

*Licensee*—With regard to the definition of “licensee,” IBC commented that the definition should be modified so that licensees that administer a governmental health

insurance program are exempt from the rulemaking. IRRC also commented on this aspect of the definition, stating that the definition of "licensee" should be clarified as to whether a licensee that administers a governmental health insurance program is bound by the rulemaking. Also, IFP seeks a clarification to the definition wherein the Department explains what entities beyond insurers it considers to be a "licensee."

Although the Department believes that because the programs do not meet the definition of "licensee," Children's Health Insurance Program, Medicaid, Medicare+Choice and other governmental health insurance programs would not be subject to the privacy regulation even without a specific exception, this final-form rulemaking nonetheless includes specific exceptions for these programs, as requested by the interested parties. However, this exception does not extend to entities that enroll participants through these programs, hence the clarification in subparagraph (iv). In addition, the language in subparagraphs (iii) and (iv) is identical to the language that is included in the definition of "licensee" in Chapter 146a (relating to privacy of consumer financial information).

The Department does not agree with IBC's comment that licensees who enroll participants through a governmental health insurance program should be exempt from the final-form rulemaking. Governmental health insurance program enrollees are entitled to the same privacy protection other persons who obtain health insurance in the private marketplace or through their employers. Therefore, contrary to the request of IBC, licensees that enroll participants through governmental health insurance programs will not be excluded from the definition of "licensee."

In response to IRRC's comment that the definition should be clarified as to whether a licensee that administers a governmental health insurance program is bound by the final-form rulemaking, the Department believes that the final-form rulemaking is sufficiently clear. Also, the language of the definition is identical to that used in the definition of "licensee" in § 146a.2 (relating to definitions). Therefore, in the interest of uniformity between these two closely related rulemakings, the Department has not changed the definition of "licensee."

The Department also does not agree with IFP's comment that the definition should explicitly identify the entities beyond insurers that the Department considers to be "licensees." The definition is abundantly clear that a person or entity licensed or required to be licensed by the Department is required to comply with this final-form rulemaking unless the entity is specifically excluded from the definition of "licensee." The only license holders that are specifically excluded are bail bondsmen as defined in 42 Pa.C.S. § 5741 (relating to definitions), motor vehicle physical damage appraisers as defined in section 2 of the Motor Vehicle Damage Appraiser Act (63 P.S. § 852) and the governmental health insurance programs previously discussed.

*Nonpublic personal health information*—IFP commented that the exception for "nonpublic personal financial information" should be removed from the definition of "nonpublic personal health information" because it believes that health information is always an exception to financial information, but not vice versa. Also, IRRC and AIA commented that the wording in subparagraph (i)(B) of the definition of "nonpublic personal health information" is not parallel to subparagraph (i)(A).

The Department disagrees with IFP. By including an exception for nonpublic personal financial information within the definition of "nonpublic personal health information," the Department has clarified that the opt-in requirements of this final-form rulemaking apply only to "nonpublic personal health information" and not to "nonpublic personal financial information." Also, because there is an exception for "nonpublic personal health information" within the definition of "nonpublic personal financial information" in Chapter 146a, the Department believes that the corresponding exception in this final-form rulemaking is both necessary and appropriate.

The Department concurs in the suggestion proposed by the IRRC and AIA regarding the wording used in subparagraph (i)(A) and (B). The Department has made an appropriate change to make the wording in these two clauses parallel.

#### Section 146b.11

*General*—IFP has suggested that the final-form rulemaking needs clarification to establish that Chapter 146b's requirements are directed at the sharing of nonpublic personal health information for marketing purposes, and not information sharing for the purposes of first and third party claims administration and processing among and between carriers. IFP made a similar suggestion in their comments to Chapter 146a.

The Department asserts that, as with Chapter 146a, this final-form rulemaking clear that claims processing functions, including the administration and processing of first and third party claims, are included under the insurance function exemptions found in § 146b.11(b) (relating to authorization required for disclosure of nonpublic personal health information). Therefore, similar to the exception for first and third party claims administration and processing in Chapter 146a, the authorization requirement of this final-form rulemaking does not attach to information sharing associated with first and third party claims administration and processing.

*"Minimum necessary" requirement*—The Department's proposed rulemaking included a provision requiring that when nonpublic personal health information is disclosed by licensees or nonlicensed third parties for the purpose of carrying out certain listed insurance functions, disclosure could be made only to the extent that the disclosure is necessary for the performance of the insurance function by the licensee or nonlicensed third party. AAI commented that this "minimum necessary" requirement in § 146b.11(b) is inconsistent with the National Association of Insurance Commissioners Privacy of Consumer Financial and Health Information Model Regulation (NAIC Model) and that the requirement is unworkable because it injects subjective preconditions into the "safe harbors" provided by the exceptions. In addition, PAMIC stated that the new requirement would introduce an element of uncertainty into the regulation exceptions. Likewise, AIA commented that the additional requirement should be deleted because it prohibits uniformity among the states, and because the standard is too vague.

The Department respectfully disagrees with the comments provided by AAI, PAMIC and AIA. Although the "minimum necessary" requirement is not found in the NAIC Model, the requirement is not inconsistent with the intent of the rulemaking, nor is it unworkable. A similar requirement is found in the Healthcare Insurance Portability and Accountability Act (Pub. L. No. 104-191, 110 Stat. 1836) (HIPAA) privacy regulation promulgated by the United States Department of Health and Human

Services at 45 CFR Parts 160—164, to which many of the Department's licensees are already subject. Furthermore, this additional requirement provides an additional layer of privacy protection to consumer's nonpublic personal health information in that only the minimum amount of nonpublic personal health information that is necessary to perform an insurance function listed in § 146b.11 (b)(1)—(33) will be disclosed without an authorization from the consumer. This requirement is not unworkable, but instead is an appropriate balance between the protection of consumer health information and the uninterrupted performance of common insurance functions.

Although IFP also commented that the "minimum necessary" requirement should be deleted from the final-form rulemaking, it also suggested in the alternative that a definition of "necessary" should be included stating that it means disclosures that are "required" or are a "usual, appropriate or acceptable" method of performing the underlying function. Likewise, IRRC commented that the language at issue should either be deleted or the criteria used to determine when disclosure is "necessary" should be included in the final-form rulemaking. IRRC also commented that it would like an explanation of when, and by whom, the "necessary" disclosure determination is made.

The Department agrees and has added subsection (c) to clarify that disclosure of nonpublic personal health information is necessary only when the disclosure is "required or when disclosure is usual, appropriate or acceptable for the purpose of performing an insurance function identified in subsection (b)." This additional explanation and guidance as to what the Department considers "necessary" in terms of the performance of the insurance function exceptions to the authorization requirement should be sufficient to alleviate the concerns raised by the interested parties.

To address IRRC's comment, a determination of what is considered "necessary" will be made by the Department in the context of an investigation, consumer complaint, market conduct examination or other analysis of a licensee's compliance with this regulation.

*Insurance function exceptions*—This final-form rulemaking includes an enumerated list of specific "insurance functions" in § 146b.11(b)(1)—(33) that do not require an authorization to the extent that disclosure of nonpublic personal health information is necessary for the performance of the insurance functions. Several commentators raised concerns that several legitimate insurance functions were not included in the exception to the final-form rulemaking's general rule that an authorization is required for the disclosure of nonpublic personal health information. For example, IFP suggested that the Department clarify in either the rulemaking or the preamble that the exceptions for "claims administration, adjustment and management" in paragraphs (1) and (2) also cover claims investigation, negotiation and settlement. IFP also commented that the wording in paragraph (31) should be changed back to the language in the NAIC Model (that is, to state "complying with legal process"). In addition, IBC recommended that paragraph (11) should be changed from "disease management" to "disease management and wellness programs" and that paragraph (15) be changed from "provider credentialing verification" to "provider training, accreditation, certification, licensure and credentialing." IBC also suggested that an exception be added for "lawful reporting of disease, injury, vital statistics, child abuse, adult abuse, neglect or domestic violence." Finally, both IFP and IRRC requested that

paragraph (23) be clarified by incorporating types of "reporting" that are included in the scope of the exception, including reporting to various index and consumer reporting bureaus.

The Department has no objection to these changes and has made appropriate revisions to the insurance function exceptions in the final-form rulemaking.

MCAP suggested deleting the phrase "that do not require disclosure of nonpublic personal information that a consumer has not previously disclosed directly to the recipient of the information" from paragraph (33) because there is a possibility that the new physician would receive protected or identifiable information prior to the member's initial visit with the new doctor.

The Department has not adopted the recommendation made by MCAP because deleting the phrase at issue would significantly expand paragraph (33) in a manner that is directly contrary to the intent and spirit of the final-form rulemaking.

*Third party confidentiality agreements*—The Department's proposed rulemaking included a requirement in § 146b.11(c) (now § 146b.11(d)) that when a licensee disclosed nonpublic personal health information to a nonlicensed third party for the purpose of having the third party perform one of the insurance functions previously described on its behalf, the licensee must enter into an agreement with the nonlicensed third party wherein that third party cannot disclose the nonpublic personal health information other than for the purpose of performing the insurance function. Several comments were raised on this provision. First, AAI commented that the requirement that licensees enter into third party confidentiality agreements is inconsistent with the NAIC Model and is unnecessary because there is a requirement that the authorization indicate the third parties who will receive the information and how the information will be used by those third parties. Second, IFP recommended deleting this requirement from the rulemaking because it is not needed, or in the alternative, the Department should use a requirement that insurers send a "notice" of confidentiality requirements to third parties instead of having a written agreement. Third, AIA suggested that the confidentiality agreement requirement be deleted because it is overly burdensome. Finally, IRRC requested clarification of how the Department intends to enforce this provision and a specification of a licensee's responsibilities with regard to the agreements if a third party breaches the same.

To address the several concerns raised with regard to the third party confidentiality agreement, the Department has deleted the requirement that an actual agreement be entered into and inserted a blanket prohibition against the disclosure of nonpublic personal health information by a nonlicensed third party other than for the purpose of performing an insurance function exception to the authorization requirement. Although the requirement for a confidentiality agreement has been deleted, licensees must still be cognizant of the disclosure practices of nonlicensed third parties performing insurance functions on their behalf. For example, the Department would consider a licensee's continued use of the services a nonlicensed third party that the licensee knows or reasonably should have known has improperly disclosed nonpublic personal health information to be a violation of this final-form rulemaking. However, when a licensee did not know or reasonably could not have known that a third party has not maintained the confidentiality of nonpublic personal health information, the Department

would likely not find a violation by the licensee. The Department has also added, at IRRC's request, new language to subsection (d) (formerly (c)).

*Additional insurance function exceptions*—The Department's proposed rulemaking included a provision in § 146b.11(d) (now § 146b.11(e) wherein additional insurance function exceptions could be added by publishing a notice in the *Pennsylvania Bulletin*. IRRC commented that additional insurance function exceptions must follow the rulemaking process because the addition of insurance function exceptions constitutes a change to the substantial requirements of the rulemaking.

The Department agrees with IRRC's comment. Accordingly, the last sentence in subsection (e) has been deleted.

#### *Section 146b.12*

*Duration of authorization*—Several comments addressed the requirement in § 146b.12(b) of the proposed rulemaking that authorizations remain valid for no more than 2 years. IFP and ACLI commented that the maximum length of time for authorizations should be extended from 24 months to 30 months because life insurers have a 24 month contestability period and if a problem arises at the end of the 24-month period, they may need 6 more months to resolve the problem. BCNP suggested that the 2-year limitation for authorizations be eliminated to be more consistent with the Federal rule. PANPHA recommended that the authorizations be permitted to remain valid until the consumer is discharged from the facility.

The Department has considered these comments, but is unwilling to deviate from the NAIC Model with regard to the requirement that authorizations remain valid for no more than 2 years. Two years is a reasonable time period for the duration of the authorizations required by this final-form rulemaking. After 2 years, consumers should be given an opportunity to reassess whether they want to grant authorization for the disclosure of their nonpublic personal health information for purposes other than performing the insurance functions identified in the final-form rulemaking, especially since a consumer's health status and health information can change dramatically in a 2 year period. Therefore, to be consistent with the NAIC Model, the Department has retained the requirement that authorizations remain valid for no more than 2 years.

To specifically address the comments made by IFP and ACLI, although the Department understands that life insurers have a 2 year contestability period in their policies, and that problems such as a fraud investigation may arise in the last month of the contestability period that would require additional time to resolve the issue, the Department does not believe that an extension of the 2 year limitation on the duration of the authorization is necessary. If a fraud investigation were to be initiated in the final month of the contestability period, it is important to recall that no authorization is required for disclosures that are made under the insurance function exceptions in § 146b.11(b), which include an exception for the "detection, prevention, investigation or reporting of action or potential fraud, misrepresentation or criminal activity." The Department believes that this exception and the other exceptions in § 146b.11(b) obviate the need for life insurers to obtain an authorization to resolve contestability issues, so no extension of the 2 year limitation on the duration of authorizations is needed.

*Record of authorization*—IFP recommended that the record retention requirement in § 146b.12(d) (relating to authorizations) be reduced from 6 years, but did not provide other alternative number of years that retention

would be acceptable. Also, IRRC questioned why it is necessary for authorizations to be maintained for 6 years when they last only for 2 years.

The Department did not change any language in § 146b.12(d) regarding the recordkeeping requirement for executed authorizations. The Department requires that licensees maintain the authorization for 6 years because the maximum duration of the authorization is 2 years and the standard statute of limitations for a contract claim is 4 years. See 42 Pa.C.S. § 5525 (relating to four year limitation). Therefore, the Department believes that it is entirely reasonable that licensees be required to maintain the authorizations in their records for 6 years.

#### *Section 146b.24*

*Annual receipts*—To be consistent with the HIPAA privacy regulation, the compliance date for this final-form rulemaking varies depending upon whether a licensee has more than \$5 million in "annual receipts." IFP commented that the reference to "annual receipts" is confusing and suggests, along with IRRC, that the term "premium" should be used instead.

The Department has not adopted the recommendation that the term "premium" be used instead of the term annual receipts because certain licensees such as insurance agents and third party administrators do not base their annual income on premium volume. However, the Department has added a definition of "annual receipts" to § 146b.2 (relating to definitions) to alleviate the concerns of IFP and IRRC.

*Compliance date*—To be consistent with the HIPAA privacy regulation's compliance date, the Department's proposed rulemaking indicated that the compliance date for this rulemaking would be April 14, 2002, or April 14, 2003 (depending upon the amount of the licensee's annual receipts). However, since the proposed rulemaking, several amendments have been proposed to the HIPAA privacy regulation. Because of these proposed amendments and because it is possible that the compliance date for the HIPAA privacy regulation might be extended or delayed, CBC, PAHPHA, Highmark and IRRC suggested that the final-form rulemaking should only generally reference the Federal rule compliance dates rather than imposing a date certain.

The Department agrees and has changed the compliance date so that the compliance date for this final-form rulemaking is the same as "the corresponding compliance date applicable to the Federal regulation."

*Five million dollars in annual receipts*—As previously explained, the compliance date for this final-form rulemaking varies depending upon whether a licensee has more than \$5 million in annual receipts. With regard to this provision, Highmark and IRRC recommended that the rulemaking be clarified to address which compliance date is to be followed when licensees have exactly \$5 million in annual receipts.

The Department agrees with the suggestion made by Highmark and IRRC. To that end, the Department has clarified § 146b.24 (relating to compliance dates) so that licensees with \$5 million or more in annual receipts must comply with the rulemaking by the corresponding date in the HIPAA privacy regulation and licensees with less than \$5 million in annual receipts must comply 1 year later as specified in the HIPAA privacy regulation.

#### *Affected Parties*

The final-form rulemaking applies to all entities that are, or are required to be, licensed by the Department.



The only exceptions are bail bondsmen as defined in 42 Pa.C.S. § 5741, motor vehicle physical damage appraisers as defined in section 2 of the Motor Vehicle Physical Damage Appraisers Act and governmental health insurance programs.

#### *Fiscal Impact*

#### *State Government*

The adoption of Chapter 146b will not cause an increase in costs to the Department.

#### *General Public*

There will be no fiscal impact to the public arising from the adoption of Chapter 146b.

#### *Political Subdivisions*

Because they are generally not licensed by the Department, this final-form rulemaking will not impose additional costs on political subdivisions.

#### *Private Sector*

The final-form rulemaking may result in additional costs to licensees of the Department that are subject to this final-form rulemaking. These costs will relate to the development, printing, retention and compliance with the authorizations required by this final-form rulemaking. These costs, however, are substantially outweighed by the privacy protections that are afforded to consumers by this final-form rulemaking.

#### *Paperwork*

The adoption of the final-form rulemaking will not impose additional paperwork on the Department or the insurance industry.

#### *Effectiveness/Sunset Date*

This final-form rulemaking becomes effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

#### *Contact Person*

Questions regarding this final-form rulemaking should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, fax (717) 772-1969, e-mail psalvatore@state.pa.us.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 5, 2002, the Department submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 1406, to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on September 25, 2002, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 26, 2002, and approved the final-form rulemaking.

#### *Findings*

The Department finds that:

(1) Public notice of intention to adopt a rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

#### *Order*

The Department, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 31 Pa. Code, are amended by adding §§ 146b.1, 146b.2, 146b.11—146b.13 and 146b.21—146b.24 to read as set forth in Annex A.

(b) The Commissioner shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Commissioner shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The rulemaking shall take effect upon final-form publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 5145 (October 12, 2002).)

**Fiscal Note:** Fiscal Note 11-209 remains valid for the final adoption of the subject regulations.

#### **Annex A**

#### **TITLE 31. INSURANCE**

#### **PART VIII. MISCELLANEOUS PROVISIONS**

#### **CHAPTER 146b. PRIVACY OF CONSUMER HEALTH INFORMATION**

##### **Subch.**

- A. GENERAL PROVISIONS**
- B. RULES FOR DISCLOSURE OF NONPUBLIC PERSONAL HEALTH INFORMATION**
- C. ADDITIONAL PROVISIONS**

##### **Subchapter A. GENERAL PROVISIONS**

##### **Sec.**

- 146b.1. Purpose.
- 146b.2. Definitions.

##### **§ 146b.1. Purpose.**

(a) *Purpose.* This chapter:

(1) Governs the treatment of all nonpublic personal health information about individuals by various licensees of the Department.

(2) Describes the conditions under which a licensee may disclose nonpublic personal health information about consumers to a third party.

(3) Requires licensees to obtain an authorization from consumers prior to disclosing nonpublic personal health information, unless otherwise permitted in this chapter.

(b) *Compliance.* A licensee domiciled in this Commonwealth that is in compliance with this chapter and Chapter 146a (relating to privacy of consumer financial

information) in a state that has not enacted laws or regulations that meet the requirements of Title V of the act of November 12, 1999 (Pub. L. No. 106-102, 113 Stat. 1338) known as the Gramm-Leach-Bliley Act (Financial Services Modernization Act of 1999) (15 U.S.C.A. §§ 6801—6827) may nonetheless be deemed to be in compliance with Title V of the Gramm-Leach-Bliley Act in the other state.

(c) *Examples.* The examples provided in this chapter are for illustrative purposes only and do not otherwise limit or restrict the scope of this chapter.

**§ 146b.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Insurance Department Act of 1921 (40 P. S. §§ 1—321).

*Annual receipts*—Premium, commissions, fees or operating revenue received in a 12-month period.

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Company*—A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

*Consumer*—

(i) An individual, or that individual's legal representative, who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal health information. Examples include:

(A) An individual who provides nonpublic personal health information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service, regardless of whether the licensee establishes an ongoing advisory relationship.

(B) An applicant for insurance prior to the inception of insurance coverage.

(C) A beneficiary of a life insurance policy underwritten by the licensee.

(D) A claimant under an insurance policy issued by the licensee.

(E) An insured under an insurance policy or an annuitant under an annuity issued by the licensee.

(F) A mortgagor of a mortgage covered under a mortgage insurance policy.

(G) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary.

(H) An individual covered under a group or blanket insurance policy or group annuity contract issued by the licensee.

(I) A claimant in a workers' compensation plan.

(ii) Examples of persons who are not consumers are as follows:

(A) An individual is not a consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee.

(B) An individual is not a consumer solely because the individual has designated the licensee as trustee for a trust.

(C) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

*Department*—The Insurance Department of the Commonwealth.

*Federal regulation*—The Federal Health Insurance Portability and Accountability Act (HIPAA) privacy regulation as promulgated by the United States Department of Health and Human Services in 45 CFR Parts 160—164.

*Financial institution*—

(i) An institution the business of which is engaging in activities that are financial in nature or incidental to the financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C.A. § 1843(k)).

(ii) The term does not include the following:

(A) A person or entity with respect to a financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C.A. §§ 1—25).

(B) The Federal Agricultural Mortgage Corporation or an entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C.A. §§ 2001—2279cc).

(C) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

*Health care*—

(i) Preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that either:

(A) Relates to the physical, mental or behavioral condition of an individual.

(B) Affects the structure or function of the human body or a part of the human body, including the banking of blood, sperm, organs or other tissue.

(ii) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

*Health care provider*—

(i) A physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with the laws of the Commonwealth.

(ii) A health care facility.

*Health information*—Information or data except age, gender or nonpublic personal financial information, whether oral or recorded in a form or medium, created by or derived from a health care provider or the consumer that relates to one or more of the following:

(i) The past, present or future physical, mental or behavioral health or condition of an individual.

(ii) The provision of health care to an individual.

(iii) Payment for the provision of health care to an individual.

*Insurance product or service*—A product or service that is offered by a licensee under the insurance laws of the Commonwealth. Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

*Licensee*—

(i) A licensed insurer, as defined in section 201-A of the act (40 P. S. § 65.1-A), a producer and other persons or entities licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered under the act or The Insurance Company Law of 1921 (40 P. S. §§ 361—991.2361), including health maintenance organizations holding a certificate of authority under section 201 of the Health Care Facilities Act (35 P. S. § 448.201).

(ii) The term does not include:

(A) Bail bondsmen as defined in 42 Pa.C.S. § 5741 (relating to definitions).

(B) Motor vehicle physical damage appraisers as defined in section 2 of the Motor Vehicle Physical Damage Appraiser Act (63 P. S. § 852) and § 62.1 (relating to definitions).

(iii) Subject to subparagraph (iv), the term does not include governmental health insurance programs such as the following:

(A) The Children's Health Insurance Program as provided for in the Children's Health Care Act (40 P. S. §§ 991.2301—991.2361).

(B) The Medicaid program as provided for in sections 441.1—453 of the Public Welfare Code (62 P. S. §§ 441.1—453).

(C) The Medicare+Choice program as provided for in the Balanced Budget Act of 1997, sections 1851—1859, Medicare Part C under Title XVIII of the Social Security Act (42 U.S.C.A. §§ 1395w-21—1395w-29).

(D) The Adult Basic Care program as provided for in the Tobacco Settlement Act. See section 1303 of the Tobacco Settlement Act (35 P. S. § 5701.1303).

(iv) The term includes a licensee that enrolls, insures or otherwise provides an insurance related service to participants that procure health insurance through a governmental health insurance program exempted under subparagraph (iii).

(v) Subject to subparagraph (ii), the term "licensee" shall also include a nonadmitted insurer that accepts business placed through a surplus lines licensee (as defined in section 1602 of The Insurance Company Law of 1921 (40 P. S. § 991.1602) in this Commonwealth, but only in regard to the surplus lines placements placed under Article XVI of The Insurance Company Law of 1921 (40 P. S. §§ 991.1601—991.1625).

*Nonpublic personal financial information*—As defined in § 146a.2 (relating to definitions).

*Nonpublic personal health information*—

(i) The term means either of the following:

(A) Health information that identifies an individual who is the subject of the information.

(B) Health information that there is a reasonable basis to believe could be used to identify an individual.

(ii) The term does not include nonpublic personal financial information.

*Producer*—An insurance agent or broker licensed or required to be licensed by the Department under the act.

## **Subchapter B. RULES FOR DISCLOSURE OF NONPUBLIC PERSONAL HEALTH INFORMATION**

### **Sec.**

146b.11. Authorization required for disclosure of nonpublic personal health information.

146b.12. Authorizations.

146b.13. Authorization request delivery.

### **§ 146b.11. Authorization required for disclosure of nonpublic personal health information.**

(a) *Authorization required.* A licensee may not disclose nonpublic personal health information about a consumer unless an authorization is obtained from the consumer whose nonpublic personal health information is sought to be disclosed.

(b) *Insurance function exception.* Nothing in this section prohibits, restricts or requires an authorization for the disclosure of nonpublic personal health information by a licensee to the extent that the disclosure of nonpublic personal health information is necessary for the performance of one or more of the following insurance functions by or on behalf of the licensee:

(1) Claims administration, including coordination of benefits and subrogation.

(2) Claims adjustment, investigation, negotiation, settlement and management.

(3) Detection, prevention, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity.

(4) Underwriting.

(5) Policy placement or issuance.

(6) Loss control.

(7) Ratemaking and guaranty fund functions.

(8) Reinsurance and excess loss insurance.

(9) Risk management.

(10) Case management.

(11) Disease management and wellness programs.

(12) Quality assurance.

(13) Quality improvement.

(14) Performance evaluation.

(15) Provider training, accreditation or certification by a recognized accrediting or certifying body, license and credential verification.

(16) Utilization review.

(17) Peer review activities.

(18) Actuarial, scientific, medical or public policy research.

(19) Grievance and complaint procedures.

(20) Internal administration of compliance, managerial and information systems.

(21) Policyholder service functions.

(22) Auditing.

(23) Reporting (examples include reporting to medical index or consumer reporting bureaus and legally required reporting of disease, injury, vital statistics, child or adult abuse, neglect or domestic violence).

- (24) Database security.
- (25) Administration of consumer disputes and inquiries.
- (26) External accreditation standards.
- (27) The replacement of a group benefit plan or workers compensation policy or program.
- (28) Activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit.
- (29) An activity that permits disclosure without authorization under the Federal regulation.
- (30) Disclosure that is required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or authorizes.
- (31) An activity otherwise permitted by law, required under governmental regulatory or reporting authority, or to comply with legal process.
- (32) Compliance with qualified medical child support Orders.
- (33) Preventive service reminders that do not require disclosure of nonpublic personal health information that a consumer has not previously disclosed directly to the recipient of the information.

(c) *Disclosure of nonpublic personal health information.* Disclosure of nonpublic personal health information is necessary when the disclosure is required or when disclosure is usual, appropriate or acceptable for the purpose of performing an insurance function identified in subsection (b).

(d) *Insurance functions performed by third parties on behalf of the licensee.* A licensee may disclose nonpublic personal health information to a third party not licensed by the Department provided that the nonpublic personal health information is disclosed only for the purposes of carrying out one or more of the insurance functions identified in subsection (b). The Department may hold a licensee responsible for disclosures made by a third party that violate the requirements of this chapter.

(e) *Additional insurance functions.* Additional insurance functions may be added with the approval of the Commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.

#### § 146b.12. Authorizations.

(a) *Valid authorization contents.* A valid authorization to disclose nonpublic personal health information under § 146b.11(a) (relating to authorization required for disclosure of the nonpublic personal health information) shall be in written or electronic form and shall contain all of the following:

- (1) The identity of the consumer who is the subject of the nonpublic personal health information.
- (2) A general description of the types of nonpublic personal health information to be disclosed.
- (3) General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure and how the information will be used.

(4) The signature of the consumer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed.

(5) Notice of the length of time for which the authorization is valid and that the consumer may revoke the authorization at any time and the procedure for making a revocation.

(b) *Duration of authorization.* An authorization for the purposes of § 146b.11(a) shall specify a length of time for which the authorization shall remain valid, which may not be for more than 24 months.

(c) *Revocation of authorization.* A consumer who is the subject of nonpublic personal health information may revoke an authorization provided under this subchapter at any time, subject to the rights of an individual or licensee who acted in reliance on the authorization prior to notice of the revocation.

(d) *Record of authorization.* A licensee shall retain the authorization and a revocation of the authorization, or copies thereof, for 6 years in the record of the individual who is the subject of nonpublic personal health information.

#### § 146b.13. Authorization request delivery.

A request for authorization and an authorization form may be delivered to a consumer as part of a privacy notice delivered under Chapter 146a (relating to privacy of consumer financial information), provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or included in other notices unless the licensee intends to disclose nonpublic personal health information under § 146b.11(a) (relating to authorization required for disclosure of nonpublic personal health information).

### Subchapter C. ADDITIONAL PROVISIONS

Sec.

- 146b.21. Relationship with other laws.
- 146b.22. Nondiscrimination.
- 146b.23. Violation.
- 146b.24. Compliance dates.

#### § 146b.21. Relationship with other laws.

(a) *Relationship with the Federal regulation.* Irrespective of whether a licensee is subject to the Federal regulation, if a licensee complies with the Federal regulation, the licensee will not be subject to this chapter.

(b) *Relationship with other state law or regulation.* Nothing in this chapter preempts or supersedes existing laws or regulations of the Commonwealth that relate to medical records, health or insurance information privacy.

(c) *Relationship with the Fair Credit Reporting Act.* This chapter will not be construed to modify, limit or supersede the operation of the Federal Fair Credit Reporting Act (15 U.S.C.A. §§ 1681—1681u), and no inference may be drawn on the basis of the provisions of this chapter regarding whether information is transaction or experience information under section 603 of that act (15 U.S.C.A. § 1681a).

(d) *Relationship with section 648 of the act (40 P.S. § 288).* This chapter will not be construed to modify, limit or supersede the operation of section 648 of the act (40 P.S. § 288) regarding customer privacy.

**§ 146b.22. Nondiscrimination.**

A licensee may not unfairly discriminate against a consumer because that consumer has not granted authorization for the disclosure of nonpublic personal health information under this chapter.

**§ 146b.23. Violation.**

Violations of this chapter are deemed and defined by the Commissioner to be an unfair method of competition and an unfair or deceptive act or practice and shall be subject to applicable penalties or remedies contained in the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15).

**§ 146b.24. Compliance dates.**

(a) Licensees with \$5 million or more in annual receipts shall comply with the applicable requirements of this chapter by the corresponding compliance date applicable to the Federal regulation.

(b) Licensees with less than \$5 million in annual receipts shall comply with the applicable requirements of this chapter by the corresponding compliance date applicable to the Federal regulation.

[Pa.B. Doc. No. 02-1878. Filed for public inspection October 25, 2002, 9:00 a.m.]

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# PROPOSED RULEMAKING

## DEPARTMENT OF GENERAL SERVICES

[4 PA. CODE CH. 61]

### Instructions to Bidders

The Department of General Services (Department), acting under sections 506, 2401.1 and 2408 of The Administrative Code of 1929 (71 P.S. §§ 186, 631.1 and 638), Executive Order 1996-1, "Regulatory Review and Promulgation" and section 201 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1201), proposes to delete Chapter 61 (relating to instructions to bidders).

#### *Purpose*

Since the bid instructions are established by regulation, they do not allow for flexibility. The instructions to bidders tell the bidders how to prepare and submit their bids. These provisions must be customized by the Department for individual projects. The Department has substantially modified these bid instructions in the years since 1975 without amending the regulations. Since the regulatory instructions are not the current Department instructions to bidders, this chapter is obsolete and must be deleted.

#### *Fiscal Impact*

There will be some savings in administrative time and expense. The Department would incur significant time and expense if it were required to proceed with the regulatory process each time it wanted to revise its instructions to bidders. If Chapter 61 is not deleted and the Department decides to change its instructions twice a year and it is required to pursue the regulatory process, the estimated administrative cost to the Department is \$18,000 per year.

#### *Paperwork Requirements*

The proposed rulemaking will impose no new or different paperwork requirements.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 9, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House State Government Committee and the Senate State Government Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

#### *Effective Date*

This proposed rulemaking will be effective upon closure of the public comment period, the regulatory review process and subsequent final-form publication in the *Pennsylvania Bulletin*.

#### *Public Comment/Contact Person*

Written comments should be submitted to Gary F. Ankabrandt, Assistant Chief Counsel, Office of Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17125. Written comments must be received within 30 days of this publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*.

KELLY POWELL LOGAN,  
*Secretary*

**Fiscal Note:** 8-4. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART III. DEPARTMENT OF GENERAL SERVICES

#### Subpart C. CONSTRUCTION AND PROCUREMENT

#### ARTICLE II. CONSTRUCTION

#### CHAPTER 61. (Reserved)

(*Editor's Note:* The Department is proposing to delete the text of Chapter 61, which appears in 4 Pa. Code pages 61-1—61-12, serial pages (235019)—(235030).)

#### §§ 61.1—61.16. (Reserved).

[Pa.B. Doc. No. 02-1879. Filed for public inspection October 25, 2002, 9:00 a.m.]

#### [4 PA. CODE CH. 63]

#### General Conditions of Contract

The Department of General Services (Department), acting under sections 506, 2401.1 and 2408 of The Administrative Code of 1929 (71 P.S. §§ 186, 631.1 and 638), Executive Order 1996-1, "Regulatory Review and Promulgation" and section 201 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1201) proposes to delete Chapter 63 (relating to general conditions of contract).

#### *Purpose*

Since the general contract conditions are established by regulation, they do not allow for flexibility. These provisions must be customized by the Department for individual projects as required. The Department has substantially modified these general conditions of contract in the years since 1975 without amending the regulations. Since the regulatory contract terms are not the Department's current general conditions of contract, this chapter is proposed to be deleted.

#### *Fiscal Impact*

There will be some savings in administrative time and expense. The Department would incur significant time and expense if it were required to proceed with the regulatory process each time it wanted to revise its contract terms. If the chapter is not deleted and the

Department decides to change its instructions twice a year and is required to pursue the regulatory process, the estimated administrative cost to the Department is \$18,000 per year.

#### *Paperwork Requirements*

The proposed rulemaking will impose no new or different paperwork requirements.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 6, 2001, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House State Government Committee and the Senate State Government Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

#### *Effective Date*

The proposed rulemaking will be effective upon closure of the public comment period, the regulatory review process and subsequent final-form publication in the *Pennsylvania Bulletin*.

#### *Public Comment/Contact Person*

Written comments should be submitted to Gary F. Ankabrandt, Assistant Chief Counsel, Office of Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17125. Written comments must be received within 30 days of this publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*.

KELLY POWELL LOGAN,  
*Secretary*

**Fiscal Note:** 8-3. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 4. ADMINISTRATION**

#### **PART III. DEPARTMENT OF GENERAL SERVICES**

#### **Subpart C. CONSTRUCTION AND PROCUREMENT**

#### **ARTICLE II. CONSTRUCTION**

#### **CHAPTER 63. (Reserved)**

(*Editor's Note:* The Department is proposing to delete the text of Chapter 63, which appears in 4 Pa. Code pages 63-1—63-58, serial pages (235033)—(235090).)

§§ 63.1—63.3. (Reserved).

§ 63.11. (Reserved).

§§ 63.12. (Reserved).

§§ 63.21—63.23. (Reserved).

§§ 63.31—63.50. (Reserved).

§§ 63.61—63.64. (Reserved).

§§ 63.71—63.74. (Reserved).

§§ 63.81—63.84. (Reserved).

§§ 63.91—63.93. (Reserved).

§§ 63.101—63.107. (Reserved).

§§ 63.111—63.113. (Reserved).

§ 63.121. (Reserved).

§ 63.122. (Reserved).

§§ 63.131—63.134. (Reserved).

§§ 63.141—63.143. (Reserved).

§§ 63.151—63.153. (Reserved).

§§ 63.161—63.163. (Reserved).

§§ 63.171—63.197. (Reserved).

§ 63.201. (Reserved).

§ 63.211. (Reserved).

[Pa.B. Doc. No. 02-1880. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **[4 PA. CODE CH. 65]**

#### **State Art Commission**

The Department of General Services (Department), acting under sections 506 and 2402.2 of The Administrative Code of 1929 (71 P. S. §§ 186 and 631.1), section 6(e) of the Sunset Act (71 P. S. § 1795.6(e)), Executive Order 1996-1, "Regulatory, Review and Promulgation" and section 201 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201), proposes to delete Chapter 65 (relating to State Art Commission).

#### *Purpose*

The State Art Commission (Commission) was terminated by section 6(e) of the Sunset Act (expired). The chapter sets out the criteria the Commission used in reviewing projects. It further sets out those submittals which must be made to the Commission. Since the Commission was sunsetted it no longer meets.

#### *Fiscal Impact*

There will be no fiscal impact. With the sunset of the Commission in 1987, this chapter is obsolete.

#### *Paperwork Requirements*

The proposed rulemaking will impose no new or different paperwork requirements.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 9, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House State Government Committee and the Senate State Government Committee. In addition to submitting the proposed rulemaking, the

Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

#### *Effective Date*

This proposed rulemaking will be effective upon closure of the public comment period, the regulatory review process and subsequent final-form publication in the *Pennsylvania Bulletin*.

#### *Public Comment/Contact Person*

Written comments should be submitted to Gary F. Ankabrandt, Assistant Chief Counsel, Office of Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17125. Written comments must be received within 30 days of this publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*.

KELLY POWELL LOGAN,  
*Secretary*

**Fiscal Note:** 8-2. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 4. ADMINISTRATION**

#### **PART III. DEPARTMENT OF GENERAL SERVICES**

#### **Subpart C. CONSTRUCTION AND PROCUREMENT**

#### **ARTICLE II. CONSTRUCTION**

#### **CHAPTER 65. (Reserved)**

(*Editor's Note:* The Department is proposing to delete the text of Chapter 65, which appears in 4 Pa. Code pages 65-1—65-3, serial pages (240653)—(240655).)

#### **§§ 65.1—65.6. (Reserved).**

[Pa.B. Doc. No. 02-1881. Filed for public inspection October 25, 2002, 9:00 a.m.]

## **STATE BOARD OF COSMETOLOGY**

### **[49 PA. CODE CH. 7]**

#### **Sanitation/Disinfection**

The State Board of Cosmetology (Board) proposes to amend § 7.1 by adding new definitions and by amending §§ 7.71, 7.71a, 7.71b, 7.91, 7.92 7.94, 7.114 and 7.129 to reflect current knowledge and procedures for sanitation and disinfection in cosmetology, cosmetician and manicur-

ing salons and cosmetology schools, and to remove several minimum equipment requirements not necessary for public health or safety.

#### *Effective Date*

The proposed rulemaking will be effective upon publication of a final-form rulemaking in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

The proposed rulemaking is authorized under sections 11 and 14 of the Beauty Culture Law (act) (63 P.S. §§ 517 and 520).

#### *Background and Purpose*

The purpose of the proposed rulemaking is to update and implement standards for disinfection and sanitation that reflect current knowledge and practices for preventing the spread of pathogens in cosmetology, cosmetician and manicuring salons and cosmetology schools.

The Board has jurisdiction over sanitation and disease control measures in cosmetology, manicuring and cosmetician shops. Under section 14 of the act, the Board is required to establish sanitary rules for licensed shops which are designed to prevent the creation or spread of infectious disease. The substantive requirements of the Board's regulations on sanitation and disease control were last amended in 1975. Since that date, advances in the chemical treatment of pathogens have made products available to Board licensees and others which substantially reduce the threat of disease transmission. Also, the generally accepted terminology for controlling the spread of disease has been revised to more precisely reflect the level of disease control. These terms are now commonly used on products and in State and Federal regulations. The proposed rulemaking will conform the Board's regulations to those standards and make it easier for shop owners and managers to comply with both State and Federal standards.

First, the Board proposes to delete the term "sterilization" and to add the terms "disinfect" and "cleanse." Sterilization now is used in connection with infection control to refer to infection control in highly sensitive environments such as hospitals. The general rule for controlling the spread of infectious diseases in nonhospital settings, such as beauty salons, is that surfaces of equipment should be both cleaned and disinfected. The Environmental Protection Agency regulates and registers chemicals and products which disinfect. These changes are reflected in the definitions added to § 7.1.

The Board also proposes new requirements concerning the cleaning and disinfection of whirlpool footspas and noncirculating footspas. These new requirements are similar to those enacted in California in May 2001.

Finally, the Board proposes to revise the minimum equipment for shops to eliminate three requirements. The Board has determined the requirements are not necessary for the health and safety of licensees or clients.

#### *Description of Proposed Amendments*

##### *Sanitation/Disinfection*

As sterilization is not required of tools and instruments used in cosmetology salons or schools or cosmetician or manicuring salons, references to sterilization have been removed. Section 7.1 (relating to definitions) contains definitions for "cleanse," "disinfect" and "EPA registered disinfectant."



Section 7.91 (relating to sanitation and safety generally) would be amended to require safe storage of sharp implements.

Section 7.92 (relating to sterilization of equipment) contains the primary requirements for sanitation and disinfection of equipment and implements, which must be subjected to a four-step cleanse/disinfect/rinse and dry/store procedure and adds new requirements for cleaning and disinfecting both circulating and noncirculating footspas.

Section 7.94 (relating to sanitary use of supplies) would be amended to reflect the new cleanse and disinfection requirement, as opposed to sterilization.

#### *Minimum Equipment Requirements*

Sections 7.71, 7.71a, 7.71b and 7.114 concern minimum equipment and supplies for cosmetology shops, cosmetician shops, manicuring shops and schools. These sections have been amended to delete requirements the Board believes unnecessary for health and safety and make editorial changes.

The Board proposes to delete the requirements for dry sterilizers in licensed shops. Shops would be required to have wet disinfection containers and dry storage containers.

#### *Compliance with Executive Order 1996-1*

In accordance with Executive Order 1996-1, "Regulatory Review and Promulgation," the Board solicited input from the regulated community as well as the Pennsylvania Cosmetology Association, the Pennsylvania Association for Vocational Teachers Educating in Cosmetology, the Pennsylvania Association of Private School Administrators, the Pennsylvania Chamber of Commerce, the Arts and Fashion Group, the Beauty and Barber Service Institute, CIDESCO, Get Nailed and RBR Productions, Inc.

The Board reviewed this proposed rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1. The proposed rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

#### *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking will have no fiscal impact nor will they impose any additional paperwork requirements on the Commonwealth or its political subdivisions.

#### *Sunset Date*

The Board continually monitors its regulations. Therefore, no sunset date has been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 10, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed

rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of objections raised.

#### *Public Comment*

Interested persons are invited to submit written comments, suggestion or objections regarding the proposed rulemaking to Deborah B. Eskin, Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Reference No. 16A-454 (Sanitation/Disinfection) when submitting comments.

FRANKLIN K. SCHOENEMAN,  
Chairperson

**Fiscal Note:** 16A-454. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

#### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

#### **CHAPTER 7. STATE BOARD OF COSMETOLOGY GENERAL PROVISIONS**

##### **§ 7.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**Cleanse**—To clean and remove debris by washing with soap and water.

**Disinfect**—To destroy pathogenic microorganisms by complete immersion in an Environmental Protection Agency (EPA) registered, bactericidal, virucidal, fungicidal and tuberculocidal disinfectant that is mixed and used according to the manufacturer's directions.

**EPA registered disinfectant**—A product used to destroy pathogenic microorganisms that is registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C.A. §§ 136—136y).

\* \* \* \* \*

**Noncirculating footspa**—A pedicure basin using noncirculating water.

**Whirlpool footspa**—A pedicure basin using circulating water.

#### **PHYSICAL REQUIREMENTS OF A BEAUTY SHOP**

##### **§ 7.71. Equipment and supplies for a cosmetology shop.**

(a) A cosmetology shop with one cosmetologist shall contain the following minimum equipment and supplies [ , which is considered the minimum equipment needed for a shop with one cosmetologist ]:

\* \* \* \* \*

(2) One [ dresserette ] styling station with mirror.

\* \* \* \* \*

(8) [ One container for hair pins or clips.

(9) One neck strip dispenser.

(10) ] A closed storage area for soiled [ linen ] towels.

[ (11) ] (9) \* \* \*

[ (12) ] (10) One closed towel cabinet for clean [ linen ] towels.

[ (13) ] (11) One [ dry sterilizer ] container for wet disinfection.

[ (14) One wet sterilizer.

(15) A reception desk. ]

(12) One clean, dry and closed container for storage.

(b) For each additional cosmetologist, **sufficient** supplies and equipment shall be [ **increased** ] available so that each cosmetologist can render services safely and efficiently.

#### § 7.71a. Equipment and supplies for a cosmetician shop.

(a) A cosmetician shop with one cosmetician shall contain the following **minimum** equipment and supplies [ , which is considered the minimum equipment needed for a shop with one cosmetician ]:

\* \* \* \* \*

(2) One [ dresserette ] styling station with mirror.

\* \* \* \* \*

(5) A closed storage area for soiled [ linen ] towels.

(6) One closed towel cabinet for clean [ linen ] towels.

\* \* \* \* \*

(8) One [ dry sterilizer ] container for wet disinfection.

(9) [ One wet sterilizer.

(10) ] One magnifying lamp.

[ (11) A reception desk. ]

(10) One clean, dry and closed container for storage.

(b) For each additional cosmetician, **sufficient** equipment and supplies shall be [ **increased** ] available so that each cosmetician can render services safely and efficiently.

#### § 7.71b. Equipment and supplies for a manicuring shop.

(a) A manicuring shop with one manicurist shall contain the following **minimum** equipment and supplies [ , which is considered the minimum equipment needed for a shop with one manicurist ]:

\* \* \* \* \*

(6) A closed storage area for soiled [ linen ] towels.

(7) One closed towel cabinet for clean [ linen ] towels.

(8) Clean [ linen ] towels.

(9) One [ wet sterilizer ] container for wet disinfection.

(10) [ One dry sterilizer.

(11) A reception desk. ] One clean, dry and closed container for storage.

(b) For each additional manicurist, **sufficient** equipment and supplies shall be [ **increased** ] available so that each manicurist can render services safely and efficiently.

### HEALTH AND SAFETY IN SHOPS

#### § 7.91. Sanitation and safety generally.

(a) A shop shall be well lighted and well ventilated.

(b) All areas of the shop, including the floors and lavatories, shall be maintained in a safe, orderly and sanitary condition.

(c) Sharp implements shall be stored upright with the points down or in a protective case.

#### § 7.92. [ Sterilization of equipment ] Sanitation and disinfectant of equipment and implements.

[ Razors, tweezers, combs, hairbrushes, and other tools, instruments, utensils and appliances that come into contact with a client shall be sanitized immediately after each use and maintained in a sanitary condition at all times. ]

(a) Equipment and implements that come in contact with a client's skin, scalp, hair or nails shall be subject to the following procedure after each client use:

(1) *Step 1: Cleanse.* All equipment and implements shall first be cleansed.

(2) *Step 2: Disinfect.* All equipment and implements shall be disinfected following cleaning.

(3) *Step 3: Rinse and dry.* The cleansed and disinfected objects shall be rinsed with clean water and dried with a clean towel.

(4) *Step 4: Store.* If not immediately used on a client, the cleansed, disinfected, rinsed and dried objects shall be stored in a clean, dry and closed container.

(b) Only cleansed, disinfected, rinsed and dried equipment and implements shall be used on clients.

(c) Equipment and implements which have come in contact with any unclean surface shall be subjected to the cleanse/disinfect/rinse and dry procedure prior to any client use.

(d) The following paragraphs apply to cleaning and disinfecting whirlpool footspas:

(1) Before use upon each patron, each whirlpool footspa shall be cleansed and disinfected in the following manner:

(i) All water shall be drained and all debris removed from the spa basin.

(ii) The spa basin shall be cleansed with soap or detergent and water, and rinsed.

(iii) The spa basin shall be disinfected.

(iv) The spa basin shall be wiped dry with a clean towel.

(2) At the end of each day, each whirlpool footspa shall be cleansed and disinfected in the following manner:

(i) The screen shall be removed, all debris trapped behind the screen removed, and the screen and the inlet cleansed.

(ii) Before replacing the screen, the screen shall be disinfected by one of the following methods:

(A) Flushing with a chlorine bleach solution of 1 teaspoon of 5% chlorine bleach to 1 gallon of water.

(B) Total immersion in an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, used according to the manufacturer's instructions.

(iii) The spa system shall be flushed with low sudsing soap and warm water for at least 10 minutes, after which the spa shall be rinsed and drained.

(3) Every other week, after cleansing and disinfecting as provided in paragraph (2), each whirlpool footspa shall be cleansed and disinfected in the following manner:

(i) The spa basin shall be filled completely with water and 1 teaspoon of 5% bleach for each 1 gallon of water.

(ii) The spa system shall be flushed with the bleach and water solution for 5 to 10 minutes and allowed to sit for 6 to 10 hours.

(iii) The spa system shall be drained and flushed with water before use upon a patron.

(4) A record shall be made of the date and time of each cleansing and disinfecting as required by paragraphs (2) and (3), which indicates whether the cleansing was a daily or biweekly cleaning. This record shall be made at or near the time of cleansing and disinfecting. Cleansing and disinfecting records shall be made available upon request by either a patron or a Bureau representative.

(e) The requirements for cleansing and disinfecting noncirculating footspas are set forth in this subsection. Before use upon each patron, each whirlpool footspa shall be cleansed and disinfected in the following manner:

(1) All water shall be drained and all debris removed from the spa basin.

(2) The spa basin shall be cleansed with soap or detergent and water.

(3) The spa basin shall be disinfected.

(4) The spa basin shall be wiped dry with a clean towel.

(f) A violation of this section may result in a citation, a civil penalty or disciplinary action. Each footspa not in compliance with this section may result in a separate violation.

#### § 7.94. Sanitary use of supplies.

\* \* \* \* \*

(d) An [ article ] implement, tool, instrument or utensil that has been dropped on the floor or otherwise rendered unsanitary shall be [ sterilized ] cleansed and disinfected before it is reused.

#### LICENSURE AND ADMINISTRATION OF SCHOOLS OF COSMETOLOGY

##### § 7.114. School equipment and supplies.

(a) A school enrolling 25 students or less shall have, at a minimum, the following equipment and supplies:

\* \* \* \* \*

(4) Four [ dry sterilizers ] containers for wet disinfection.

(5) [ Four wet sterilizers.

6 ] Four facial chairs.

[ (7) Four complete sets of cold wave equipment. ]

[ (8) ] (6) \* \* \*

[ (9) ] (7) Twelve [ dresserettes ] styling stations, mirrors and chairs.

[ (10) ] (8) \* \* \*

[ (11) ] (9) Four closed containers for soiled [ linen ] towels.

[ (12) ] (10) [ Three closed ] Closed waste containers.

[ (13) ] (11) \* \* \*

[ (14) ] (12) One bulletin board [ with dimensions of at least 2 feet by 2 feet ].

[ (15) ] (13) One chalkboard [ with dimensions of at least 4 feet by 4 feet ].

[ (16) ] (14) One [ linen cabinet ] closed towel cabinet for clean towels.

[ (17) ] (15) \* \* \*

[ (18) ] (16) [ Three timer ] Timer clocks.

[ (19) ] (17) \* \* \*

(18) Four clean, dry and closed containers for storage.

(19) One first-aid kit.

(b) These minimum equipment and supply requirements shall increase proportionately as the number of students enrolled in the school increases.

#### § 7.129 Curriculum requirements.

(a) Except as provided in subsection (b), a school's cosmetology curriculum, excluding electives, shall comprise 1250 hours, and cover the following subjects; the accompanying breakdown of hours by subject is recommended:

#### BASIC COSMETOLOGY CURRICULUM

Recommended  
Hours

Professional Practices  
Bacteriology, [ Sterilization ], Disinfection,  
Sanitation

50

\* \* \* \* \*

[Pa.B. Doc. No. 02-1882. Filed for public inspection October 25, 2002, 9:00 a.m.]

# STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

## Expanded Function Dental Assistants

The State Board of Dentistry (Board) proposes to amend § 33.103 (relating to examinations) to read as set forth in Annex A.

### A. *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

### B. *Statutory Authority*

The Board is authorized to adopt regulations concerning certification requirements for expanded function dental assistants under section 3(o) of the Dental Law (act) (63 P. S. § 122(o)).

### C. *Background and Purpose*

The act of December 27, 1994 (P. L. 1361, No. 160) (Act 160) amended the act to require the certification and regulation of expanded function dental assistants (EFDA). Act 160 required that EFDAs desiring to be certified by the Board must have completed an education program and passed an examination approved by the Board.

The Board, through a final-form rulemaking published at 30 Pa.B. 2359 (May 13, 2000), determined that the examination would include both written and clinical (performance) components to ensure that certificate holders possess the requisite knowledge and skill to properly and safely perform their job functions. In part, the Board included a clinical component at the request of many EFDAs who believed that this was a necessary requirement. The public, including individuals, dentists, dental hygienists, EFDAs and numerous professional associations, participated in the lengthy rulemaking process. Both written and clinical components to an examination were seen as necessary to insure protection of public health and safety.

Efforts to develop an examination for EFDAs had been underway for several years. Numerous attempts were made to contract with vendors, either through the use of Requests for Proposals (RFP) or through sole source contracting. However, despite these efforts, the Department of State was only able to enter into contract negotiations with one potential bidder for the development of an EFDA examination.

The Board had concerns regarding the cost of the examination. Those concerns were also expressed by anticipated certificate holders and professional associations. A performance component greatly increases the cost of the examination due to the need to rent a facility and to hire additional proctors for necessary manual grading. Additionally, the examination must be initially administered to approximately 1,800 temporary permit holders. Because no National examination for EFDAs exists, the costs of developing and administering a Commonwealth examination must be included in the costs for candidates from this Commonwealth. After the first examination is given, approximately 100 candidates will be tested each year. When an examination is developed for a small candidate population, the costs will be higher because those costs cannot be distributed over a large continuous population of candidates.

Due in some part to the prospect of an examination fee between \$700-900, permit holders and members of the Legislature sought input after the RFP process had been completed. After examining these concerns, the Board decided to take some additional time to address the issue of the necessity of a clinical examination.

Accordingly, the Board held a public hearing on July 20, 2001, to receive testimony from interested parties concerning the EFDA examination. Based upon the testimony received, as well as written comment, the Board was persuaded that the clinical portion of the examination requirement should be deleted. The Board believes that the public can be adequately protected with a written examination and that supervising dentists and EFDA programs requiring clinical experience can ensure capability.

The quality of a dental restoration is ultimately determined by the competency of the supervising dentist. If a restoration is below standard, it can be redone without harm to the patient and with minimal inconvenience. In addition, competency testing for other comparable occupations indicates that a written examination can adequately test for clinical competency.

### D. *Description of Proposed Rulemaking*

The proposed rulemaking deletes the clinical examination requirement for expanded function dental assistants in § 33.103(c) (relating to examination).

### E. *Compliance with Executive Order 1996-1, "Regulatory Review and Promulgation"*

The Board reviewed this proposed rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1. The proposed rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

In accordance with Executive Order 1996-1, the Board sent a draft of this proposed rulemaking on April 6, 2001, to 138 dental associations, schools and interested persons for predraft comment and held a public hearing on July 20, 2001. The list of these entities is available upon request from the contact person listed. Thirty-three EFDAs commented in the predraft stage supporting the elimination of the clinical examination. At the public hearing, six persons testified in support of the elimination of the clinical examination, two persons supported eliminating the clinical examination for temporary permit holders only and two persons supported retention of both the clinical and written examinations.

### F. *Fiscal Impact and Paperwork Requirements*

This proposed rulemaking will have a beneficial fiscal impact upon EFDA certification applicants as the cost of the certification examination should be considerably reduced. At this stage, it is not possible to estimate the fiscal impact with precision. Cost data will be available when a contract is finalized for the administration of the written examination.

### G. *Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 10, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the

Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of objections raised.

#### I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Deborah B. Eskin, Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4612 (Deletion of Expanded Function Dental Assistants) when submitting comments.

NORBERT O. GANNON, D.D.S.,  
Chairperson

**Fiscal Note:** 16A-4612. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 33. STATE BOARD OF DENTISTRY

#### Subchapter B. LICENSURE OF DENTISTS AND DENTAL HYGIENISTS AND CERTIFICATION OF EXPANDED FUNCTION DENTAL ASSISTANTS

#### § 33.103. Examinations.

\* \* \* \* \*

(c) *Expanded function dental assistants.* Candidates for certification shall pass an examination [ **comprised of both a written and a clinical component** ] acceptable to the Board.

\* \* \* \* \*

[Pa.B. Doc. No. 02-1883. Filed for public inspection October 25, 2002, 9:00 a.m.]

#### [49 PA. CODE CH. 33] Sexual Misconduct

The State Board of Dentistry (Board) proposes to add § 33.211a (relating to sexual misconduct) to read as set forth in Annex A. This proposed rulemaking identifies when sexual exploitation by Board regulated practitioners with patients will be deemed unprofessional conduct.

#### Effective Date

The proposed rulemaking will be effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*.

#### Statutory Authority

Under section 3(c), (d), (d.1) and (o) of the Dental Law (63 P.S. §§ 122(c), (d), (d.1) and (o)), the Board has authority to establish standards of professional conduct for Board regulated practitioners under its jurisdiction. These individuals include dentists, dental hygienists and expanded function dental assistants.

#### Background and Purpose

It should be axiomatic that it is unprofessional conduct for a Board regulated practitioner to sexually exploit patients. Past decisions of the Board, the draft code of ethics committee of the American Dental Association and responsible professional publications addressing the issue denounce sexual exploitation of a patient by a practitioner. However, complaints are filed each year by consumers who have been harmed by Board regulated practitioners who engage in this conduct.

#### Description of Proposed Amendments

The proposed rulemaking would add § 33.211a to make sexual misconduct an unprofessional conduct.

The purpose of the proposed rulemaking is to better protect patients by providing guidance to the profession and the public as to prohibited sexual conduct between practitioners and patients. The proposed rulemaking would prohibit sexual exploitation by a Board regulated practitioner of a current patient. "Sexual exploitation" is defined by § 33.211a as sexual behavior with a current patient that uses trust, knowledge, emotions or influence derived from the professional relationship.

The proposed rulemaking provides that Board regulated practitioners who engage in prohibited sexual conduct with patients will not be eligible for placement in the Board's impaired professional program in lieu of disciplinary or corrective actions. The impaired professional program is unable to effectively monitor Board regulated practitioners who have engaged in sexual misconduct.

The proposed rulemaking would also provide that patient consent will not be considered a defense to disciplinary action in these cases. The imbalance of power inherent in the health care practitioner-patient relationship not only serves as the basis for the prohibition but also undermines the patient's ability to consent to sexual behavior as an equal when trust, knowledge, emotions or influence derived from the professional relationship are used.

#### Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions. Likewise, the proposed rulemaking should not necessitate any legal, accounting, reporting or other paperwork requirements.

#### Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

#### Compliance with Executive Order 1996-1, "Regulatory Review and Promulgation"

In compliance with Executive Order 1996-1, the Board extended an invitation to comment on early drafts of this

proposed rulemaking to numerous parties who have indicated an interest in the Board's regulatory activities. The list of these persons is available upon request from the contact person listed in this Preamble. Two comments were received and considered by the Board at the March 15, 2002, Board meeting.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 10, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of objections raised.

#### *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Deborah B. Eskin, Counsel, State Board of Dentistry, 116 Pine Street, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking.

NORBERT O. GANNON, D.D.S.,  
*Chairperson*

**Fiscal Note:** 16A-4613. No fiscal impact; (8) recommends adoption.

### **Annex A**

## **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

#### **CHAPTER 33. STATE BOARD OF DENTISTRY**

##### **Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE**

##### **§ 33.211a. Sexual misconduct.**

Unprofessional conduct, as defined in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)), includes sexual misconduct by a dentist, dental hygienist and EFDA as follows:

(1) *Definitions.* The following words and terms, when used in the section, have the following meanings, unless the context clearly indicates otherwise:

*Sexual behavior*—Any sexual conduct that has no diagnostic or therapeutic purpose, including words, actions or any combination thereof which are or are intended to be, sexual in nature, or which may be construed by a reasonable person as sexual in nature.

*Sexual exploitation*—Any sexual behavior, with a current patient, that uses trust, knowledge, emotions or influence derived from the professional relationship.

(2) *Disciplinary action.* Sexual exploitation by a Board regulated practitioner of a current patient constitutes unprofessional conduct, is prohibited, and subjects the practitioner to disciplinary action.

(3) *Impaired professional program.* A practitioner who engages in conduct prohibited by this section will not be eligible for placement into an impaired professional program in lieu of disciplinary action or correction.

(4) *Consent.* Consent is not a defense to conduct prohibited by this section.

(5) *Exclusion.* This section does not apply to a spouse or equivalent domestic partner.

[Pa.B. Doc. No. 02-1884. Filed for public inspection October 25, 2002, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending October 15, 2002.

### BANKING INSTITUTIONS

#### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
10-8-02	Citizens Financial Group, Inc., Providence, RI, to acquire 100% of the voting shares of Commonwealth Bancorp, Inc., Norristown, PA	Providence, RI	Filed

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-8-02	Citizens Bank of Pennsylvania, Philadelphia, and Commonwealth Bank, Norristown Surviving Institution— Citizens Bank of Pennsylvania, Philadelphia	Philadelphia	Filed
10-15-02	First Commonwealth Bank, Indiana, and Southwest Bank, Greensburg Surviving Institution— First Commonwealth Bank, Indiana	Indiana	Effective

All branch offices of Southwest Bank will become branch offices of First Commonwealth Bank including the former main office of Southwest Bank located at:

111 South Main Street  
Greensburg  
Westmoreland County

#### Interstate Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-1-02	U. S. Trust Company Greenwich Fairfield County, CT	1818 Market St. Philadelphia Philadelphia County	Opened

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-10-02	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Clearview Mall Giant Eagle 1521 N. Main St. Butler Butler County	Opened
10-15-02	Community Banks Millersburg Dauphin County	4501 Hanover Pike Manchester Carroll County, MD	Approved
10-15-02	Community State Bank of Orbisonia Orbisonia Huntingdon County	307 N. Church Street Three Springs Huntingdon County	Filed

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-23-02	Three Rivers Bank and Trust Company Jefferson Borough Allegheny County	<i>To:</i> 500 Braddock Ave. Braddock Allegheny County  <i>From:</i> 823 Braddock Avenue Braddock Allegheny County	Effective

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-9-02	Pittsburgh Savings Bank Pittsburgh Allegheny County	125 Brownsville Rd. Pittsburgh Allegheny County	Filed

**Articles of Amendment**

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
10-11-02	Standard Bank, PaSB Murrysville Westmoreland County	Section II amended to provide for a change in the principal place of business <i>from:</i> 3875 Old William Penn Highway, Murrysville; <i>to:</i> 4785 Old William Penn Highway, Murrysville.	Approved and Effective

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

PAUL H. WENTZEL, Jr.,  
*Acting Secretary*

[Pa.B. Doc. No. 02-1885. Filed for public inspection October 25, 2002, 9:00 a.m.]

**Maximum Lawful Rate of Interest for Residential Mortgages for the Month of November 2002**

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of November 2002, is 7%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as a principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.37 to which was added 2.50 percentage points for a total of 6.87 that by law is rounded off to the nearest quarter at 7%.

PAUL H. WENTZEL, Jr.,  
*Acting Secretary*

[Pa.B. Doc. No. 02-1886. Filed for public inspection October 25, 2002, 9:00 a.m.]



# DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

## Snowmobile and ATV Advisory Committee Meeting

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) will hold a meeting on Thursday, November 7, 2002, at 9:30 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Geralyn Umstead at (717) 772-9087.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Geralyn Umstead at (717) 772-9087 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN C. OLIVER,  
*Secretary*

[Pa.B. Doc. No. 02-1887. Filed for public inspection October 25, 2002, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

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### APPLICATIONS

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### NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

### NPDES APPLICATIONS

### PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements. For all new permit applications, renewal application with major changes or applications for permits not waived by EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement, to the office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

Persons with a disability, who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information, should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**I. NPDES Renewal Applications**

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0055166	Andrew C. Azzara 1650 Mill Rd. W Furlong, PA 18925	Bucks County Buckingham Township	Neshaminy Creek	Y
PA0052728	Turkey Hill Minit Market Inc. 257 Centerville Road Lancaster, PA 17603	Chester County City of Coatesville	UNT to West Branch of Brandywine Creek	Y
PA0031178	Melody Lakes Properties 1045 North West End Boulevard Lot 600 Quakertown, PA 18951-4111	Bucks County Richland Township	UNT to Tohickon Creek	Y
PA0050059	English Village Service Co. Inc. 120 South Main Street Doylestown, PA 18901	Montgomery County Horsham Township	Park Creek	Y
PA005671	Marc and Elizabeth Lattanzi 26 Collins Lane Schwenksville, PA 19473	Montgomery County Limerick Township	UNT to Mine Run Creek	Y

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0070211	Post Precision Castings Inc. P. O. Box A Strausstown, PA 19559	Berks County Upper Tulpehocken Township	UNT Jackson Creek 3C	Y
PA0087521	Albertson's Inc. American Stores Properties, Inc. P. O. Box 20 Dept. 72405 Environmental Affairs Boise, ID 83726	Lancaster County East Cocalico Township	UNT to Little Muddy Creek	Y

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0113107 Sewerage Nonpublic	Columbia County Briar Creek Park STP Court House Bloomsburg, PA 17815	Columbia County Briar Creek Township	East Branch Briar Creek SWP 5D	Y

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**PA0032549, Amendment 1**, Sewage, **Department of Conservation and Natural Resources**, Presque Isle State Park Administration Building, Route 832, Peninsula Drive, Erie, PA 16505-0510. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Activity: The applicant requests to modify the Presque Isle Marina sewage treatment plant to accommodate additional park facilities.

The receiving stream, Presque Isle Bay, is in the Lake Erie watershed and classified for WWF and protected for critical use of aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, there is no existing/proposed downstream potable water supply (stream and public water supplier) to consider until Lake Erie.

The proposed interim limits for Outfall 001 are based on a design flow of 0.0175 MGD and will be effective upon permit issuance until completion of the new Marina sewage treatment plant.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
Total Residual Chlorine	0.50		
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		No limits—closed	
pH		6.0 to 9.0 standard units at all times	

The proposed final effluent limits for Outfall 001 are based on a design flow of 0.030 MGD and will become effective upon completion of the new Marina sewage treatment plant.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
Phosphorus as "P"	1.0		
Total Residual Chlorine	0.50		1.4
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		5,000/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

**PA0029122**, Sewage, **Saxonburg Area Authority**, Dinnerbell Road, Saxonburg, PA 16056. This proposed facility is located in Jefferson Township, **Butler County**.

Description of Proposed Activity: an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is Zelienople Municipal Water Works and Connoquenessing Creek located at Zelienople, 24 miles below point of discharge.

The receiving stream, Thorn Run, is in watershed 20-C and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.5 MGD.

<i>Parameter</i>	<i>Monthly Average (lb/day)</i>	<i>Average Weekly (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX				
CBOD <sub>5</sub>					
(5-1 to 10-31)	42	63	10	15	20
(11-1 to 4-30)	83	125	20	30	40
Total Suspended Solids	125	187	30	45	60
NH <sub>3</sub> -N					
(5-1 to 10-31)	8.3		2		4
(11-1 to 4-30)	25		6		12
Total Phosphorus (as P)					
(4-1 to 10-31)	8.3		2		4
Copper					
(Interim)	0.017		0.04		0.08
(Final)	0.014		0.033		0.066
Fecal Coliform					
(5-1 to 9-30)				200/100 ml as a geometric average	
(10-1 to 4-30)				2,800/100 ml as a geometric average	
Total Residual Chlorine			0.43		1.42
Dissolved Oxygen				minimum of 6 mg/l at all times	
pH				6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

## II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**No. PA0050652**, Sewage, **Westtown School**, Westtown Road, P. O. Box 1799, Westtown, PA 19395-1799. This application is for renewal of an NPDES permit to discharge treated sewage from east branch of Chester Creek in Westtown Township, **Chester County**. This is an existing discharge to the east branch of Chester Creek.

The receiving stream is classified for TSF, HQ-TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 0.03 MGD are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>		
(5-1 to 10-31)	20	40
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	2.5	5.0
(11-1 to 4-30)	7.5	15.0
Nitrate and Nitrite (as N)		
(7-1 to 10-31)		
Phosphorus (as P)		
Total Residual Chlorine	0.5	1.2
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

The EPA Waiver is in effect.

**No. PA0052892**, Sewage, **Donald F. Byrne**, 2201 North Ridley Creek Road, Media, PA 19063-1968. This application is for renewal of an NPDES permit to discharge treated sewage from Byrne SRSTP in Upper Providence Township, **Delaware County**. This is an existing discharge to an unnamed tributary.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 500 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>	<i>Measurement Frequency</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	10	20	Not Monitored
(11-1 to 4-30)	20	40	Not Monitored
Total Suspended Solids	10	20	Not Monitored
Ammonia (as N)	20	40	Not Monitored
Total Residual Chlorine	Monitor and Report	Monitor and Report	1/Month
Fecal Coliform	200 colonies/100 ml as a geometric average		1/Year
pH	Within limits of 6.0—9.0 Standard Units at all times		Not Monitored

The EPA Waiver is in effect.

**No. PA0057274**, Sewage, **Michael and Antionette Hughes**, 305 Auburn Drive, Downingtown, PA 19335-4420. This application is for renewal of an NPDES permit to discharge treated sewage from Hughes Single Residence Sewage Treatment Plant in Upper Uwchlan Township, **Chester County**. This is an existing discharge to an unnamed tributary to Marsh Creek.

The receiving stream is classified for HQ-TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 500 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>	<i>Measurement Frequency</i>
CBOD <sub>5</sub>	10	20	Not Monitored
Total Suspended Solids	10	20	Not Monitored
Ammonia (as N)			
(5-1 to 10-31)	1.5	3.0	Not Monitored
(11-1 to 4-30)	4.5	9.0	Not Monitored
Total Residual Chlorine	Monitor and Report	Monitor and Report	1/Month
Fecal Coliform	200 colonies/100 ml as a geometric average		1/Year
Dissolved Oxygen	minimum of 6.0 mg/l at all times		Not Monitored
pH	Within limits of 6.0—9.0 Standard Units at all times		Not Monitored

The EPA Waiver is in effect.

**No. PA0052647**, Industrial Waste, **Pottstown Borough Water Authority**, 100 East High Street, Pottstown, PA 19464. This application is for renewal of an NPDES permit to discharge untreated filter backwash water from Pottstown Borough Water Treatment Plant in West Pottsgrove Township, **Montgomery County**. This is an existing discharge to Schuylkill River.

The receiving stream is classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 0.20 MGD are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Iron, Total	2.0	4.0	
Aluminum, Total	4.0	8.0	
Manganese, Total	1.0	2.0	
Total Suspended Solids	30	60	
Total Residual Chlorine	0.5	1.0	
pH	Within limits of 6.0—9.0 Standard Units at all times		

The EPA Waiver is in effect.

**No. PA0030112**, Sewage, **Methacton School District**, 1001 Kriebel Mill Road, Norristown, PA 19408. This application is for renewal of an NPDES permit to discharge treated sewage from Methacton School District STP in Worcester Township, **Montgomery County**. This is an existing discharge to an unnamed tributary of Skippack Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 0.027 MGD, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>		
(5-1 to 10-31)	20	40
(11-1 to 4-30)	25	50
Total Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	2.0	4.0
(11-1 to 4-30)	6.0	12.0
Phosphorus (as P)	2.0	4.0
Total Residual Chlorine	0.2	0.5
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

The EPA Waiver is in effect.

**No. PA0024058**, Sewage, **Borough of Kennett Square**, 120 North Broad Street, Kennett Square, PA 19348-2942. This application is for renewal of an NPDES permit to discharge treated sewage from a sewage treatment plant in Kennett Township, **Chester County**. This is an existing discharge to West Branch Red Clay Creek.

This notice reflects changes to the notice published at 32 Pa.B. 1418 (March 16, 2002). Based on additional sampling data, the limits for mercury are deleted.

**No. PA0054186**, Sewage, **Department of Corrections**, P. O. Box 246, Route 29, Graterford, PA 19426. This application is for renewal of an NPDES permit to discharge treated sewage from SCI Graterford WWTP in Skippack Township, **Montgomery County**. This is an existing discharge to an unnamed tributary to Perkiomen Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 1.5 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	1.5	3.0
(11-1 to 4-30)	3.0	6.0
Phosphorus (as P)		
(4-1 to 10-31)	2.0	4.0
Total Residual Chlorine	0.01	0.03
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 6 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

Other Conditions:

The EPA Waiver is in effect.

**No. PA0052272**, Industrial Waste, **Henry Company**, 336 Cold Stream Road, Kimberton, PA 19442-0368. This application is for renewal of an NPDES permit to discharge treated groundwater and stormwater from the facility in East Pikeland Township, **Chester County**. This is an existing discharge to unnamed tributary to French Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 9,000 GPD are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Trichloroethylene (Influent) (Effluent)	Monitor and Report 0.0056	Monitor and Report 0.011	Monitor and Report 0.014
Temperature			110°F
pH	Within limits of 6.0—9.0 Standard Units at all times		

The proposed effluent limits for Outfall 009, for stormwater are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Annual Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease	Monitor and Report		
Phenols		Monitor and Report	
Dissolved Iron		Monitor and Report	

The proposed effluent limits for Outfall 010, for stormwater are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Annual (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			Monitor and Report
COD			Monitor and Report
Oil and Grease			Monitor and Report
pH			Monitor and Report
Total Suspended Solids			Monitor and Report
Total Kjeldahl Nitrogen			Monitor and Report
Total Phosphorus			Monitor and Report
Iron (Dissolved)			Monitor and Report

**No. PA0057096**, Sewage, **Oxford Area Sewer Authority**, P. O. Box 380, 401 Market Street, Oxford, PA 19363. This application is for Renewal of an NPDES permit to discharge treated sewage from Oxford Area Sewer Authority STP in East Nottingham Township, **Chester County**. This is an existing discharge to an unnamed tributary of Tweed Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 0.5 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
Ammonia (as N) (5-1 to 10-31)	2.0		4.0
(11-1 to 4-30)	6.0		12.0
Phosphorus (as P)	2.0		4.0
Total Residual Chlorine	0.05		0.12
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	Within limits of 6.0—9.0 Standard Units at all times		

The EPA Waiver is in effect.

**No. PA0054593**, Sewage, **David Ebersol**, 167 Concord Meeting Road, Glen Mills, PA 19342. This application is for renewal of an NPDES permit to discharge treated sewage from Ebersol single residential sewage treatment plant in Concord Township, **Delaware County**. This is an existing discharge to unnamed tributary to West Branch of Chester Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 400 GPD are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>	<i>Measurement Frequency</i>
CBOD <sub>5</sub> (5-1 to 10-31)	10	20	Not Monitored
(11-1 to 4-30)	20	40	Not Monitored
Total Suspended Solids	10	20	Not Monitored

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>	<i>Measurement Frequency</i>
Ammonia (as N) (5-1 to 10-31)	3.0	6.0	Not Monitored
(11-1 to 4-30)	9.0	18.0	Not Monitored
Total Residual Chlorine	Monitor and Report	Monitor and Report	1/Month
Fecal Coliform	200 colonies/100 ml as a geometric average		1/Year
pH	Within limits of 6.0—9.0 Standard Units at all times		Not Monitored

The EPA Waiver is in effect.

**No. PA0050989**, Sewage, **Frederick Mennonite Community**, P. O. Box 498, Frederick, PA 19435-0498. This application is for renewal of an NPDES permit to discharge treated sewage from Frederick Mennonite Community WWTP in Upper Frederick Township, **Montgomery County**. This is an existing discharge to an unnamed tributary to West Swamp Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 49,900 GPD are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	30	60
Ammonia (as N) (5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Phosphorus (as P) (4-1 to 10-31)	1.0	2.0
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	Minimum of 6.0 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

Other Conditions:

The EPA Waiver is in effect.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**PA0063606**, Industrial, SIC Code 4911, **Reliant Energy Mid-Atlantic Power Holdings, LLC**, 1001 Broad Street, Johnstown, PA 15907. This proposed facility is located in Bangor Borough, **Northampton County**.

Description of Proposed Activity: This proposed action is for renewal of NPDES permit to discharge collected and settled stormwater.

The receiving stream, Brushy Meadow Creek, is in the State Water Plan watershed #01F and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for City of Easton is located on Delaware River, 10 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.002 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Total Suspended Solids				100
Oil and Grease				20

The proposed effluent limits for Outfall 002 based on a design flow of 0.01 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Total Suspended Solids				100
Oil and Grease				20

**PA0060071-A1**, Industrial, **Aventis Pasteur, Inc.**, Discovery Drive, Swiftwater, PA 18370-0187. This proposed facility is located in Pocono Township, **Monroe County**.

Description of Proposed Activity: This proposed action is for amendment of an NPDES permit to discharge treated process wastewater, cooling water and sewage into Swiftwater Creek in Pocono Township, Monroe County.

The receiving stream, Swiftwater Creek, is in the State Water Plan watershed #1 and is classified for HQ-CWF. The nearest downstream public water supply intake for Borough of Stroudsburg Intake is located on Brodhead Creek, approximately 10 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .35 MGD.

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
BOD <sub>5</sub>	64		
NH <sub>3</sub> -N			
(5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Phosphorous	1.5		3.0
Total Suspended Solids	30	60	75
Total Dissolved Solids	1,800	2,700	
COD	162	858	
pH	6.0—9.0 SU at all times		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
Mercury	0.001	0.002	0.003
Cyanide, Total	4.27	15.2	
Acetone	.091	.230	
Acetonitrile	4.6	11.3	
n-Amyl acetate	0.230	.590	
Amyl alcohol	1.86	4.5	
Benzene	.009	.023	
n-Butyl acetate	.230	.590	
Chlorobenzene	.027	.068	
Chloroform	.006	.009	
o-Dichlorobenzene	.028	.069	
1,2-Dichloroethane	.018	.027	.036
Diethyl Amine	46.3	113.5	
Dimethyl Sulfoxide	17.0	41.5	
Ethanol	1.86	4.5	
Ethylacetate	.230	.590	
n-Heptane	.009	.023	
n-Hexane	.009	.014	
Isobutyraldehyde	.23	.540	
Isopropanol	.730	1.8	
Isopropyl Acetate	.231	.590	
Isopropyl ether	1.20	3.81	
Methanol	1.9	4.500	
Methycellosolve	18.40	45.4	
Methylene Chloride	.140	.180	
Methyl Formate	.230	.590	
MIBK	.091	.231	
Phenol	.009	.023	
Tetrahydrofuran	1.2	3.81	
Toluene	.009	.027	
Triethylamine	46.3	113.5	
Xylenes	.005	.014	

A special condition for controlling chemical additives usage rate is included in the permit.

A General Condition stating that the discharge may not change the temperature of receiving stream by more than 2°F in a 1 hour period (no monitoring required).

Seventeen outfalls—uncontaminated stormwater only.

The EPA waiver is in effect.

**PA0070505**, Industrial, **Geo Specialty Chemicals, Inc.**, 2409 North Cedar Crest Boulevard, Allentown, PA 18104. This proposed facility is located in South Whitehall Township, **Lehigh County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated industrial wastewater.

The receiving stream, Jordan Creek, is in the State Water Plan watershed #2C and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Allentown/EMG is located on Lehigh River, approximately 2 miles below the point of discharge.

The proposed effluent limits for Monitoring Point 101 and Outfall 001 are based on design flows of 2 MGD and 6 MGD, respectively.



*Monitoring Point 101*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)					
BOD <sub>5</sub>	747	1,993	45	120	
Total Suspended Solids	948	3,045	57	183	
PH	Within limits of 6 to 9 Standard Units at all times				

*Outfall 001*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)					
CBOD <sub>5</sub>					
(5-1 to 10-31)	1,250	2,499	25	50	62.5
(11-1 to 4-30)	1,499	2,999	30	60	75
Total Suspended Solids	1,250	2,499	25	50	62.5
Ammonia (as N)					
(5-1 to 10-31)	120	240	2.4	4.8	6
(11-1 to 4-30)	360	720	7.2	14.4	18
Phosphorus (as P)	350	700	7	14	17.5
Sulfate	24,990	49,980	500	1,000	1,250
Total Dissolved Solids	49,980	99,960	1,000	2,000	2,500
Color			100	200	250
Dissolved Oxygen	Minimum of 5 Mg/L at all times				
pH	Within limits of 6 to 9 Standard Units at all times				
Formaldehyde			.05		.60

In addition to the effluent limits, the permit contains the following major special condition: continuation of groundwater sampling.

**PAS802213**, Industrial, **United Parcel Service, Inc.**, 1821 South 19th Street, Harrisburg, PA 17104. This proposed facility is located in Stroud Township, **Monroe County**.

Description of Proposed Activity: Renewal of an individual Industrial Stormwater NPDES Permit for discharge of stormwater from Outfall 001 to an unnamed tributary of McMichaels Creek.

The receiving stream, unnamed tributary to McMichaels Creek, is in the State Water Plan watershed #1 and is classified for HQ-CWF. The nearest downstream public water supply intake for City of Easton is located on Delaware River is approximately 38 miles below the point of discharge.

The proposed effluent limits for Outfall 1 based on stormwater discharges.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
CBOD				Report
COD				Report
Oil and Grease				Report
pH				Report
TSS				Report
TKN				Report
Total Phosphorus				Report
Dissolved Iron				Report

**PA0064220**, Sewage, **Twin County Joint Municipal Authority**, 200 West Chapel Street, Hazleton, PA 18201. This proposed facility is located in North Union Township, **Schuylkill County**.

Description of Proposed Activity: Proposed discharge of 130,000 gpd of treated sewage from Nuremburg and Shepton into Tomhickon Creek.

The receiving stream, Tomhickon Creek, is in the State Water Plan watershed #5E and is classified for CWF. The nearest downstream public water supply intake for Danville Borough Water System is located on the North Branch Susquehanna River below the point of discharge.

The proposed effluent limits for Outfall 1 based on a design flow of 0.13 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD <sub>5</sub>	25	37.5	50
Total Suspended Solids	30	45	60

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
NH <sub>3</sub> -N (5-1 to 10-31)	17		34
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	1.0	2.3	

**PA0064271**, Sewage, **Robert and Kimberly Manning**, 4926 Main Road West, Emmaus, PA 18049. This proposed facility is located in Upper Milford Township, **Lehigh County**.

Description of Proposed Activity: Discharge of 0.0004 MGD of treated sewage.

The receiving stream, unnamed tributary to Leibert Creek, is in the State Water Plan watershed #2C and is classified for HQ-CWF. The nearest downstream public water supply intake for City of Easton is located on Delaware River below the point of discharge.

The proposed effluent limits for Outfall 1 based on a design flow of 0.0004 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31) (11-1 to 4-30)	10 20		20 40
Total Suspended Solids	20		40
NH <sub>3</sub> -N (5-1 to 10-31) (11-1 to 4-30)	5 15		10 30
Fecal Coliform	200/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	1.2		2.8

**PA0064211**, Sewage, **Schuylkill Valley Sewer Authority**, P. O. Box 314, Mary-D, PA 17952. This proposed facility is located in Blythe Township, **Schuylkill County**.

Description of Proposed Activity: New Discharge of treated municipal wastewater.

The receiving stream, Schuylkill River, is in the State Water Plan watershed #03A and is classified for CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Pottstown Borough Water Authority is located on Schuylkill River, 40 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.55 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (5-1 to 10-31)	17.5		35
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	1.0		2.3

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**PAG123567**, CAFO, **Tom and Kathy Haas, Haas Swine Farm**, R. R. 1, Box 13A, James Creek, PA 16657. This proposed facility is located in Lincoln Township, **Huntingdon County**.

Description of Proposed Activity: The Haas Swine Farm is a new swine facility with an estimated total AEUs of 303. An estimated quantity of total annual manure production is 608.2 tons. The operation will consist of 2,180 finishing swine. There will be one 82 feet wide and 226 feet long barn onsite with a 6-foot deep reinforced concrete manure storage area under the building. There will be a 6 1/2 months manure storage which equals 693,097 gallons. Of the 1,236,600 gallons of manure generated on the farm, 435,000 gallons will be used on the farm with 801,600 exported from the farm.

The receiving stream, UNT to Raystown Branch, is in the State Water Plan watershed 11-D and is classified for TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

**PAG123566**, CAFO, **Penn-Jersey Pork & Beef Farms, Inc.**, P. O. Box 220, Bernville, PA 19506. This proposed facility is located in Upper Tulpehocken Township, **Berks County**.

Description of Proposed Activity: The Penn Jersey Pork & Beef Farm is an existing cattle and swine operation with a total AEUs of 577. An estimated quantity of total annual manure production is 13,295 tons. The operation consists of almost 500 cattle, 1,000 swine and 101 goats. The multiple manure storage facilities that are utilized with this operation include a 150,000 gallon concrete pit and a 365,000 gallon concrete pit. As needed, temporary stacking areas for solid manure are used before land application. Of the 2,792 tons of solid cattle manure generated on the farm, 1,338 is used on the farm with 1,454 ton exported from the farm. Of the 1,121,600 gallons of liquid cattle manure generated on the farm, 1,032,000 gallons are used on the farm with 89,600 gallons exported from the farm. Of the swine manure generated on the farm, 462,800 gallons of liquid manure is generated with 255,450 gallons being used on the farm and 207,350 gallons exported from the farm; 2,775 ton of solid manure is generated with all of it being exported from the farm.

The receiving stream, Jackson Creek and Little Swatara Creek, is in the State Water Plan watershed 3-C and 7-D and is classified for CWF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

**Application No. PA0070351**, Sewage, **Amity Township**, 2004 Weavertown Road, Douglassville, PA 19518. This facility is located in Township STP, Amity Township, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Schuylkill River, is in Watershed 3-D and classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Pottstown Borough is located on Schuylkill River, approximately 2.0 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.6 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Suspended Solids	30	45	60
NH <sub>3</sub> -N	20	XXX	XXX
Total Residual Chlorine	0.5	XXX	XXX
Total Dissolved Solids	1,000	XXX	2,000
S. Capricornutum	XXX	Monitor and Report	XXX
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		10,000/100 ml as a geometric average	

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is not in effect.

**Application No. PA0246841**, Sewage, **Joseph Himes, Himes Modular Home Park**, R. D. 4, Box 20, Boyertown, PA 15912. This facility is located in North Woodbury Township, **Blair County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, of an unnamed tributary to Plum Creek, is in Watershed 11-A and classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Newport Borough Water Authority is located on the Juniata River, approximately 130 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.033 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
Suspended Solids	10	20
NH <sub>3</sub> -N		
(5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Total Residual Chlorine	0.5	1.5
Dissolved Oxygen		Minimum of 5.0 at all times
pH		From 6.0 to 9.0 inclusive
Fecal Coliform		200/100 ml as a geometric average

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

**Application No. PA0246999**, Sewage, **Gregg and Karen Brady**, 7886 Lincoln Way West, Saint Thomas, PA 17252. This facility is located in Saint Thomas Township, **Franklin County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, UNT to Campbell Run, is in Watershed 13-C and classified for CWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Hagerstown, MD is located on the Potomac River, approximately 30 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0004 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
Total Residual Chlorine	Monitor and Report		Monitor and Report
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		100,000/100 ml as a geometric average	

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

**Application No. PA0054852**, Industrial Waste, **Western Berks Refuse Authority**, 455 Poplar Neck Road, Birdsboro, PA 19508. This facility is located in Cumru Township, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for a existing discharge of treated industrial waste.

The receiving stream, Schuylkill River, is in Watershed 3-C and classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Pottstown Borough is located on Schuylkill River, approximately 17 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.04 MGD are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH (SU)			From 6.0 to 9.0 inclusive		
Total Suspended Solids	Monitor and Report	Monitor and Report	27	60	75
Total Zinc	Monitor and Report	Monitor and Report	0.110	0.200	0.275
Phenol	Monitor and Report	Monitor and Report	0.015	0.026	0.037
Total PCB	Monitor and Report	Monitor and Report	0.00047	0.00094	0.00117
p-Cresol	Monitor and Report	Monitor and Report	0.014	0.025	0.035
Alpha Terpineol	Monitor and Report	Monitor and Report	0.016	0.033	0.040
Benzoic Acid	Monitor and Report	Monitor and Report	0.071	0.120	0.177
BOD	Monitor and Report	Monitor and Report	37	140	175
Ammonia as N	Monitor and Report	Monitor and Report	4.9	10	12
Total Dissolved Solids	1,605	3,210	7,700	15,400	19,250
Total Residual Chlorine	XXX	XXX	1.5	XXX	2.5
Fecal Coliform					
(5-1 to 9-30)	XXX	XXX	200	XXX	XXX
(10-1 to 4-30)	XXX	XXX	10,000	XXX	XXX

The proposed effluent limits for Stormwater Outfalls 002, 003—005, 008 and 009 are:

<i>Parameter</i>	<i>Monitoring Requirements</i>	
	<i>Grab Sample (mg/l)</i>	<i>Monitor Frequency</i>
CBOD <sub>5</sub>	Monitor and Report	1/6 months
Chemical Oxygen Demand	Monitor and Report	1/6 months
Total Suspended Solids	Monitor and Report	1/6 months
Ammonia as N	Monitor and Report	1/6 months
Nitrate + Nitrite Nitrogen	Monitor and Report	1/6 months
Total Iron	Monitor and Report	1/6 months
Oil and Grease	Monitor and Report	1/6 months
pH (SU)	Monitor and Report	1/6 months

<i>Parameter</i>	<i>Monitoring Requirements</i>	
	<i>Grab Sample (mg/l)</i>	<i>Monitor Frequency</i>
Total Dissolved Solids	Monitor and Report	1/6 months
Total Lead	Monitor and Report	1/6 months
Total Organic Carbon	Monitor and Report	1/6 months
Total Cadmium	Monitor and Report	1/6 months
Total Barium	Monitor and Report	1/6 months
Total Chromium	Monitor and Report	1/6 months
Total Mercury	Monitor and Report	1/6 months
Total Silver	Monitor and Report	1/6 months
Total Magnesium	Monitor and Report	1/6 months
Total Selenium	Monitor and Report	1/6 months
Total Arsenic	Monitor and Report	1/6 months
Total Cyanide	Monitor and Report	1/6 months

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PAS804802**, Industrial Stormwater SIC 0447, 0422, **CFJ Properties**, 1104 Country Hills Drive, Ogden, UT 84403. This proposed facility will be located in Porter Township, **Clinton County**.

Description of Proposed Activity: This proposed action is for the issuance of a NPDES permit for discharge of stormwater runoff from an automobile and long haul truck retail, refueling center.

The receiving stream, Fishing Creek, is in the Bald Eagle Creek watershed (SWP 9C) and is classified for HQ-CWF. The nearest downstream public water supply intake, Pennsylvania American Water Company at Milton, is located on the West Branch Susquehanna River, 66 stream miles below the point of discharge.

The proposed effluent limits for Outfalls 001 and 002 are based on Best Management Practices.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**PA0238821**, Sewage, **Joseph A. Moski**, 3726 Melrose Avenue, Erie, PA 16508-2322. This proposed facility is located in Glade Township, **Warren County**.

Description of Proposed Activity: a new permit for a new discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Emlenton Municipal Authority on the Allegheny River located at Emlenton, approximately 50 miles below point of discharge.

The receiving stream, Allegheny River, is in watershed 16-B and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0005 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow		Monitor and Report	
CBOD <sub>5</sub>	10		20
Total Suspended Solids	20		40
Fecal Coliform (all year)		200/100 ml as a geometric average	
Total Residual Chlorine		Monitor and Report	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

## WATER QUALITY MANAGEMENT PERMITS

### CONTROLLED INDUSTRIAL WASTE AND SEWAGE WASTEWATER

#### APPLICATIONS UNDER THE CLEAN STREAMS LAW

##### PART II PERMITS

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons wishing to comment on an application are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department reserves the right to hold a public hearing if the responsible office considers the public

response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection. Appointments to review the application may be made by contacting Records Management at the indicated telephone number.

#### **I. Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1–691.1001).**

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**WQM Permit No. 0902202, Industrial Waste, Exxon Mobil Corporation**, 220 Commerce Drive, Suite 205, Fort Washington, PA 19034. This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Applicant is requesting approval to discharge treated groundwater to underground injection wells.

**WQM Permit No. 4600404 Amendment No. 1, Sewerage, Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969-0209. This proposed facility is located in Telford Borough, **Montgomery County**.

Description of Proposed Action/Activity: Amendment to existing permit to increase current maximum monthly flow to 1.23 MGD.

**WQM Permit No. 1501406 Amendment No. 3, Sewerage, Penn Township**, 260 Lewis Road, West Grove, PA 19390. This proposed facility is located in Penn Township, **Chester County**.

Description of Proposed Action/Activity: Amend existing permit to convey the sewage from the Reynolds Tract into the Elk Creek Farms Pump Station.

**WQM Permit No. 0902407, Sewerage, Bucks County Water and Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. This proposed facility is located in Middletown Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of sewage pump station to serve Jefferson at Middletown a residential apartment development.

**WQM Permit No. 5202404, Lake Adventure Community Associations, Inc.**, 5000 Lake Adventure, Milford, PA 18337. This proposed facility is located in Dingman Township, **Pike County**.

Description of Proposed Action/Activity: This project proposes to install new pumps automated valving, new spray heads and controls to the existing sewage treatment and disposal system at Lake Adventure. Lake Adventure is a recreational vehicle community with approximately 1,800 sites located in Dingman Township, Pike County, PA.

**WQM Permit No. 5402403, Heisler's Cloverleaf Dairy**, 743 Catawissa Road, Tamaqua, PA 18252. This proposed facility is located in Walker Township, **Schuylkill County**.

Description of Proposed Action/Activity: The proposed project consists of construction of a new sewage disposal system for an existing commercial property known as Heisler's Cloverleaf Dairy. The proposed design flow for the new sewage disposal system is 5,600 GPD or 14 EDUs. The proposed method of sewage disposal will be the construction of a package sewage treatment plant with a stream discharge to the Beaver Creek.

**WQM Permit No. 4802408, Bath Borough Authority**, Race and Mill Streets, P. O. Box 87, Bath, PA 18014. This proposed facility is located in Bath Borough, **Northampton County**.

Description of Proposed Action/Activity: This project consists of the replacement of the coarse bubble diffusers with a fine bubble strip aerators in each aeration tank and to convert aeration tank #4 to its original use as a flow equalization tank. Application also involves a rerate in the organic loading to the treatment plant. There is no increase in the hydraulic capacity.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**WQM Permit No. 3602414, Sewerage, Borough of Ephrata**, 124 South State Street, Ephrata, PA 17522. This proposed facility is located in Ephrata Borough and East Cocalico Townships, **Lancaster County**.

Description of Proposed Action/Activity: Replacement of the upper interceptor.

**WQM Permit No. 3602405, Sewerage, Lancaster County Bible Church**, 2392 Mount Joy Road, Manheim, PA 17545. This proposed facility is located in Rapho Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/operation of a drip irrigation system followed by a sewage treatment facility to serve the church.

**WQM Permit No. 2802402, Sewerage, Gregg and Karen Brady**, 7886 Lincoln Way West, St. Thomas, PA 17252. This proposed facility is located in St. Thomas Township, **Franklin County**.

Description of Proposed Action/Activity: Construction/operation of a small flow sewage treatment plant to serve their single family residence.

**WQM Permit No. 3602204, CAFO Operation, Graywood Farms, LLC**, 225 Mason Dixon Road, Peach Bottom, PA 17563. This proposed facility is located in Fulton Township, **Lancaster County**.

Description of Proposed Action/Activity: Approval for the construction of a manure composting facility.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 4102405, Sewerage, Williamsport Sanitary Authority**, 253 West Fourth Street, Williamsport, PA 17701. The proposed facilities will be located in the City of Williamsport, **Lycoming County**.

Description of Proposed Action/Activity: The Williamsport Sanitary Authority proposes the construction of sewer replacements and additions in the east end area of Williamsport.

**WQM Permit No. 5902411**, Sewerage, **Jackson Township Municipal Authority**, P. O. Box 61, Milerton, PA 16936. This proposed facility will be located in Jackson Township, **Tioga County**.

Description of Proposed Activity: The applicant proposes the construction and operation of wastewater collection, conveyance and treatment facilities to serve Jackson Township. The treatment facilities will have an average daily flow of 0.1 MGD and consist of an activated sludge system.

**WQM Permit No. 1997201**, Industrial Waste, **Heinz Pet Products**, 6670 Low Street, Bloomsburg, PA 17815. This existing facility is located in South Centre Township, **Columbia County**.

Description of Proposed Action/Activity: The applicant proposes to obtain permit coverage for a new surge tank.

#### **NPDES Stormwater Individual Permit**

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be

considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

Persons with a disability who require an auxiliary aid, service or other accommodation to participate during the 30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**NPDES Permit PAS10G548**, Stormwater, **Heritage Building Group, Inc.**, 3326 Old York Road, Suite A100, Furlong, PA 18925, has applied to discharge stormwater associated with a construction activity located in East Coventry Township, **Chester County** to unnamed tributary to Schuylkill River and Pigeon Creek (HQ-TSF).

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Lehigh County Conservation District: Lehigh Ag. Ctr., Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.*

<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q250	Carpenter Co. 5016 Monument Ave. Richmond, VA 23230	Lehigh County Upper Macungie Township	Little Lehigh Creek HQ-CWF

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.*

<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS10S117	LTS Development, Inc. P. O. Box 160 Shawnee on Delaware, PA 18356	Monroe County Middle Smithfield Township	Sand Hill Creek HQ-CWF
PAS10S118	Talanton Associates, Inc. P. O. Box 367 Bartonsville, PA 18321	Monroe County Jackson Township	Appenzell Creek HQ-CWF Kettle Creek HQ-CWF
PAS10S119	Alpine Rose Resorts, Inc. 100 Ivy Hill Circle Reading, PA 19606	Monroe County Eldred Township	Aquashicola Creek HQ-CWF

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

NPDES No.	Applicant Name & Address	County & Municipality	Receiving Water/Use
PAS10U183	Victoria Calantoni Manor Haven Corp. 6065 William Penn Hwy. Easton, PA 18042	Northampton County Wind Gap Borough Plainfield Township	Bushkill Creek HQ-CWF

## PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

*Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

#### Permit No. 2502504, Public Water Supply.

Applicant	<b>North East Borough Water Authority</b> 31 West Main Street North East, PA 16428
Township or Borough	North East Township, <b>Erie County</b>
Responsible Official	Benjamin Breniman, Borough Manager
Type of Facility	PWS

Consulting Engineer	August E. Maas, P. E. Hill Engineering, Inc. 8 Gibson Street North East, PA 16428
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Application Received Date	October 7, 2002
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Description of Action	Construct two raw water pump stations, improvements to existing plant; 36" intake line into Lake Erie, new chlorination system, new cover and liner for filtered water reservoir and one backwash settling lagoon.
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#### Permit No. 4302502, Public Water Supply.

Applicant	<b>Watergait Community Water Association</b> 10 Northgait Drive Slippery Rock, PA 16057
Township or Borough	Liberty Township, <b>Mercer County</b>
Responsible Official	Cathy Setzer, Board Member
Type of Facility	PWS
Consulting Engineer	Joseph P. Pacchioni, P. E. Hickory Engineering, Inc. 3755 East State Street Hermitage, PA 16148.
Application Received Date	September 23, 2002
Description of Action	New well and treatment plant to replace existing system.

### WATER ALLOCATIONS

#### Applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WA56-12A, Water Allocations, Municipal Authority of the Borough of Somerset, P. O. Box 71, Somerset, PA 15501, Somerset County.** The applicant is requesting a water allocation of 1.75 MGD average day value, under normal operating conditions and 5.0 MGD peak day value, when water will be used to fill off stream impoundments during times of high flows in Laurel Hill Creek.



## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

#### Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of a Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for a contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Aspire, Inc.**, Falls Township, **Bucks County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, on behalf of Mickey Briggs, Esq., Attorney for PA Building, LLC, c/o Cox, Hodgman & Giarmarco, PC, 101 W. Big Beaver Rd., Columbia Center, Troy, MI 48084, has submitted a Notice of Intent to Remediate soil contaminated with MTBE and unleaded gasoline and groundwater contaminated with lead, MTBE and unleaded gasoline. The applicant proposes to remediate the site to meet Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on October 4, 2002.

**Town & Country Shopping Center**, West Goshen Township, **Chester County**. Richard P. Almquist, Jr., OXFORD Engineers & Consultants, Inc., 2621 VanBuren Ave., Suite 500, Norristown, PA 19403, on behalf of John Pfister, Jaymate Associates, LP, One Wiltshire Rd., Wynnewood, PA 19090, has submitted a Notice of Intent to Remediate groundwater contaminated with MTBE and unleaded gasoline. The applicant proposes to remediate the site to meet Background Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on September 27, 2002.

**Delchester Oil Property**, West Goshen Township, **Chester County**. Michael Cody, Cody Ehlers Group, 140 Sherman St., Fairfield, CT 06430, on behalf of William Weber, Heating Oil Partner, LLP, 613 Ways Lane, Kennett Square, PA 19348, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with diesel fuel, Fuel Oil No. 2, MTBE and unleaded gasoline. The applicant proposes to remediate the site to meet Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on September 17, 2002.

**Smith Kline Beecham Corp. d/b/a Glaxo Smith Kline**, Upper Merion Township, **Montgomery County**. Michael Gonshor, P. G., Roux Associates, Inc., 1222 Forest Parkway, West Deptford, NJ 08066, on behalf of Glaxo Smith Kline, Peter McGinnis, 1250 S. Collegeville Rd., Collegeville, PA 19426, has submitted a Notice of Intent to Remediate soil contaminated with chlorinated solvents and other organics and groundwater contaminated with chlorinated solvents, inorganics, lead and other organics. The applicant proposes to remediate the site to meet Background, Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *King of Prussia Courier* on October 4, 2002.

**Lola Landes Property**, Lower Salford Township, **Montgomery County**. George W. Buchanan, P. G., Cowan Associates, Inc., 120 Penn-Am Drive, Quakertown, PA 18951 on behalf of Greg Landes, 532 Meetinghouse Rd., Harleysville, PA 19438, has submitted a Notice of Intent to Remediate soil contaminated with leaded gasoline. The applicant proposes to remediate the site to meet Background and Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Souderton Independent* on October 9, 2002.

**Former Whitman's Chocolate (Pillsbury) Warehouse**, City of Philadelphia, **Philadelphia County**.

Blake Moyer URS Corp., 1400 Union Meeting Rd., Blue Bell, PA 19422-1972, on behalf of Gershal Brothers, Larry Gershal, 720 N. Fifth St., Philadelphia, PA 19123, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with Fuel Oil No. 4. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on September 30, 2002.

**Anzon Facility**, City of Philadelphia, **Philadelphia County**. Craig Herr, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Cookson America, Inc., 1 Cookson Pl., Providence, RI 02903, has submitted a revised Notice of Intent to Remediate soil contaminated with inorganics, lead, other organics and PAH; and groundwater contaminated with chlorinated solvents, inorganics, lead, MTBE, other organics and PAH. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Inquirer* in September 2002.

*Northeast Regional Field Office: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Corporate Real Estate, Ltd.**, Washington Township, **Northampton County**. Vincent M. Carbone, P. G., Project Geologist, Lawler, Matusky & Skelly Engineers, LLP, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 has submitted a revised Notice of Intent to Remediate (on behalf of Corporate Real Estate, Ltd., 100 Majestic Way, Bangor, PA 18013) concerning the remediation of site soils found or suspected to have been contaminated with chlorinated solvents and other organics, no. 2 fuel oil, lead and other inorganics as the result of historic previous site operations. The applicant proposes to meet the Statewide health standard.

**PPL—Weissport Substation**, Franklin Township, **Carbon County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA, 18101 has electronically submitted a Notice of Intent to Remediate concerning the remediation of site soils found or suspected to be contaminated with PCBs. The notice indicates that the site will be remediated to meet the Statewide human health standard. A summary of the Notice of Intent to Remediate was reported published in *The Times News* on September 19, 2002.

**PPL—Jenkins Substation**, Plains Township, **Luzerne County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA, 18101 has electronically submitted a Notice of Intent to Remediate concerning the remediation of site soils found or suspected to be contaminated with PCBs. The notice indicates that the site will be remediated to meet the Statewide human health standard. A summary of the Notice of Intent to Remediate was reportedly published in *The Times Leader* on September 19, 2002.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Columbia Reduction Company**, Borough of Columbia, **Lancaster County**. Alliance Environmental Services, Inc., 1414 Cameron Street, Harrisburg, PA 17103, on behalf of Colonial Metals Company, 217 Linden Street, P. O. Box 311, Columbia, PA 17512, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with inorganics and lead. The applicant proposes to remediate the site to meet a combination of requirements

for the Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Columbia Ledger* on September 26, 2002.

*Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.*

**Wilden Nuss Property**, College Township, **Centre County**. Bolger Brothers, Inc., on behalf of Nittany Oil Company, Inc., 321 North Front Street, Philipsburg, PA 16866 has submitted a Notice of Intent to Remediate site soils contaminated with fuel oil no. 2. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Centre Daily Times* on September 3, 2002.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Former Mellon Bank**, City of Butler, **Butler County**. CDM, 2740 Smallman St., Suite 100, Pittsburgh, PA 15222 (on behalf of former Mellon Bank (now owned by Citizens Bank), 301 North Main St., Butler, PA 16001) has submitted a Notice of Intent to Remediate Soil contaminated with LDGAS. The applicant proposes to remediate the site to meet the Statewide Health Nonresidential Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Butler Eagle* on September 21, 2002.

## HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Application received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.**

*Southeast Region: Regional Solid Waste Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**PAD000429589. Waste Management Disposal Services of Pennsylvania, Inc.**, 1121 Bordentown Rd., Morrisville, PA 19067, Falls Township, **Bucks County**. This RCRA Part B renewal application was submitted for Old Grows Landfill and Surface Impoundments. Application was received in the Southeast Regional Office on October 2, 2002.

## MUNICIPAL WASTE GENERAL PERMITS

**Permit Proposed under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit No. WMGM020. Department of Environmental Protection, Bureau of Land Recycling and Waste Management**, proposes to authorize salvage facilities to process scrap metal from municipal waste incinerators to remove ash residue under General Permit No. WMGR020. This will be a Statewide general permit.

Under the terms and conditions of the general permit, persons who are approved to process this scrap metal will

be required to meet, at a minimum, The Clean Streams Law, the Air Pollution Control Act and the Solid Waste Management Act (SWMA).

The Department is authorized under the SWMA and 25 Pa. Code § 271.801 to issue general permits for any category of beneficial use or processing that results in the beneficial use of municipal waste on a regional or State-wide basis when the Department determines that the use will not harm or present a threat of harm to the health, safety or welfare of the public or the environment and the activity can be adequately regulated using standard permit conditions.

Persons requesting approval to operate under the terms and conditions of the general permit will be required to obtain a "Determination of Applicability." The following minimum information will be required to obtain a "Determination of Applicability."

At a minimum, the following information, if applicable, must be provided on forms available from the Regional Office or the Department's Bureau of Land Recycling and Waste Management:

1. Name and street address of applicant.
2. Number and title of the general permit.
3. A detailed site plan of the facility including drawings and descriptions of locations of all storage areas, containment structure design and composition, access roads, property lines, contours, wells, utilities, erosion and sedimentation controls and the like.
4. A plan to minimize and control hazards or nuisances from vectors, odors, noise, dust and other nuisances. The plan shall include methods used to minimize and control odors, dustfall and noise off the property boundary from the facility. The plan shall also include routine assessments to evaluate the effectiveness of the controls.
5. Signed and notarized statement by the person who seeks authorization to operate under the terms and conditions of the permit that states that the person accepts all conditions of the general permit
6. An application fee in the amount specified in the municipal waste regulations payable to the "Commonwealth of Pennsylvania."
7. Proof that copies of the "Determination of Applicability" application have been submitted to each municipality, county, county planning agency and county health department, if one exists, in which activities are or will be located.
8. Proof that the applicant has legal right to enter the land and perform the facility activities approved under the permit.
9. An irrevocable written consent from the landowner giving the Department permission to enter upon land where the applicant will be conducting waste management activities.
10. Information that identifies the applicant (that is, individual, corporation, partnership, government agency, association and the like) and related parties, including the names and addresses of every officer who has a financial interest in or controls the facility operation.
11. A list of all previous permits or licenses issued to the applicant or any related parties by the Department or Federal government under the environmental protection acts, the dates issued, status and compliance history concerning environmental protection acts.

12. Proof that any independent contractors retained by the applicant to perform any activities authorized under this permit are in compliance with State and Federal laws and regulations relating to environmental protection.

Comments concerning the proposed general permit should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. Persons interested in obtaining more information about, or obtaining copies of, the proposed general permit may contact the Division of Municipal and Residual Waste at the previous phone number. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the proposed general permit.

#### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101— 6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southeast Region: Regional Solid Waste Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Permit Application No. 301338. Barnebey Sutcliffe Corp.,** 1055 Boot Road, Downingtown, PA 19335, East Caln Township, **Chester County.** The application is for a radiation action protection plan. Application was received in the Southeast Regional Office on October 2, 2002.

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit Application No. 300977. Standard Steel LLC,** 500 N. Walnut Street, Burnham, PA 17009-1644, Derry Township, **Mifflin County.** The application is for the change of ownership for the Standard Steel Residual Waste Landfill. The permit was determined to be administratively complete by the Southcentral Regional Office on October 8, 2002.

Comments concerning the application should be directed to John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Persons interested in obtaining more information about the general permit application may contact the Waste Management Program, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

### **AIR QUALITY**

#### **PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS**

##### **NEW SOURCES AND MODIFICATIONS**

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regu-

lated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Office identified in this notice. Persons interested in reviewing the application files should contact the appropriate Regional Office to schedule an appointment.

Persons wishing to receive a copy of the proposed Plan Approval or Operating Permit must indicate their interest to the Department Regional Office within 30 days of the date of this notice and must file protests or comments on a Proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts, which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act and regulations adopted under the Act.

### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-03097: Kore Mart Limited** (P. O. Box 175, Hamburg, PA 19526) for construction of a sand reclaimer controlled by a fabric collector in the Borough of Hamburg, **Berks County**.

**36-05002B: Armstrong World Industries** (P. O. Box 3001, Lancaster, PA 17604) for modification of an existing flooring production line at the flooring plant in the City of Lancaster, **Lancaster County**.

**67-05092C: Starbucks Coffee Co.** (3000 Espresso Way, York, PA 17402) for installation of a cyclone, high efficiency air filter and a mist eliminator to control the

existing pair of hot chaff collection systems at the York Roasting Plant in East Manchester Township, **York County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.*

**24-157A: Energy Resources, Inc.—Mine 33** (Drummond Road, Brockport, PA 15823), for construction of a coal preparation plant (150 tons/hour) in Horton Township, **Elk County**. The construction of this facility is subject to Federal New Source Performance Standard, 40 CFR Part 60, Subpart Y.

**16-010A: Owens Brockway Glass Container, Inc., Plant 17** (151 Grand Avenue, Clarion, PA 16214) for installation of a baghouse (3,500 cfm) on an existing hot end glass surface treatment process for the Clarion Plant, Clarion, **Clarion County**. The Clarion facility is a Title V facility.

**43-329A: White Rock Silica Sand** (331 Methodist Road, Greenville, PA 16125) for post-construction of a 565 kW generator in Hempfield Township, **Mercer County**.

**16-142A: TDK Coal Sales, Inc.—Weaver II Mine** (Route 68, Clarion, PA 15824), for construction of a portable coal crusher (less than 200 tons/day) and diesel engine in Highland Township, **Clarion County**.

### OPERATING PERMITS

**Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**46-00032: SPS Technologies, Inc.** (Highland Avenue, Jenkintown, PA 19046) located in Abington Township, **Montgomery County** for an administrative amendment to Title V Operating Permit 46-00032. The permit is being amended to incorporate changes based on the appeal of the Title V Operating Permit. Monitoring and recordkeeping for the scrubber operating hours was changed from a daily basis to making sure the scrubber is on 1 hour before and 1 hour after electroplating parts. The monitoring and recording frequencies for the air-handling units were changed due to the small size of the units. The aluminum anodizing, monarch operations and machining operations were moved to the insignificant activities list. The facility's major emission points include boilers, heating operations and electroplating and coating operations. There will be no allowable increases in emissions due to the changes in the Title V Operating Permit. The amended Title V operating permit will contain additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

**15-00014: Saint Gobain Performance Plastics, Corp.** (57 Morehall Road, Malvern, PA, 19355) located in East Whiteland Township, **Chester County** for an administrative amendment to Title V Operating Permit 15-00014. The permit is being amended to incorporate changes approved under plan approval number PA150014C. The amended Title V Operating Permit will contain additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

**15-00015: Sartomer Co., Inc.** (610 Bolmar Street, West Chester, PA 19382) for an amendment to the Title V Permit for their chemical manufacturing facility in West Chester Borough, **Chester County**. The Title V Operating Permit for this facility was revised to deal with issues regarding an appeal. The changes made to this permit were additions of wording or abbreviations to help clarify what the sources are in the inventory list, addition of language to the boilers and emergency generators to fit what the company is presently doing in the form of monitoring and recordkeeping and the removal of duplicate storage tank sources. These changes do not result in an increase of emissions. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

**09-00006: U. S. Steel—Fairless Works** (Pennsylvania Avenue, Fairless Hills, PA 19030) for an amendment to the Title V Operating Permit for their secondary steel processing facility in Falls Township, **Bucks County**. The Title V Operating Permit for this facility was revised to deal with issues regarding an appeal. On a ruling by the EPA, the permit was changed to remove a condition that designated U. S. Steel and Exelon Generating Co.—Fairless Hills Generating Station as support facilities. A definition for the term malfunction was also added to the permit. These changes do not result in an increase of emissions. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.*

**40-301-076A: Lacey Memorial** (Rear 1000 South Church Street, Hazleton, PA 18201) for construction and operation of an animal crematory at their facility in Hazle Township, **Luzerne County**. The incinerator temperature of 1,800°F shall be maintained with a minimum gas residence time of one second. The exit temperature shall be monitored and recorded whenever the unit is in operation. Particulate emissions shall not exceed 0.08 grain/dscf, corrected to 7% O<sub>2</sub>. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**45-302-070: Pocono Medical Center** (206 East Brown Street, East Stroudsburg, PA 18301-3094) for construction and operation of two new natural gas/#2 oil fired boilers which will be controlled by the use of low NO<sub>x</sub> Burners at their facility in East Stroudsburg Borough, **Monroe County**. The new boilers will have NO<sub>x</sub> emissions of less than 30 ppm when firing natural gas. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The facility currently has Operating Permits 45-302-051 and 45-302-055.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**22-05010: Texas Eastern Transmission, LP** (P. O. Box 1642, Houston, TX 77251-1642) for operation of a natural gas compressor station at its Grantville Compressor Station in East Hanover Township, **Dauphin County**. This Title V Operating Permit is being renewed.

Texas Eastern Transmission, LP, Grantville Compressor Station is subject to the operating permit requirements of the Title V of the Federal Clean Air Act and 25 Pa. Code

Chapter 127, Subchapters F and G. The facility's major sources of emissions include four natural gas fired turbine driven compressors and an engine-generator, which primarily emits NO<sub>x</sub>. The Title V operating permit No. 22-05010 renewal will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**67-05012: Transcontinental Gas Pipeline Corp., Station 195** (P. O. Box 1396, Houston, TX 77251) for operation of a natural gas compressor station in Peach Bottom Township, **York County**. This Title V Operating Permit is being renewed.

Transcontinental Gas Pipeline Corporation, Station 195 is subject to the operating permit requirements of the Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F and G. The facility's major sources of emissions include five engine driven compressors and an engine-generator, which primarily emits oxides of nitrogen. The Title V operating permit No. 67-05012 renewal will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**67-05023: American Color Graphics, Inc.** (215 North Zarfoss Drive, York, PA 17404) for the operation of a commercial printing facility in West Manchester Township, **York County**. This is a renewal of the Title V Operating Permit issued in 1998.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.*

**41-00003: PPL Martins Creek, LLC** (2 North Ninth Street, Allentown, PA 18101-1179) for renewal of the Title V operating permit for the Williamsport combustion turbine facility in Williamsport, **Lycoming County**. The facility is currently operating under Title V operating permit 41-00003, which was issued February 5, 1998. The facility's main sources include two #2 fuel oil fired combustion turbines and a 100,000 gallon #2 fuel oil tank, which have the potential to emit major quantities of NO<sub>x</sub> and SO<sub>x</sub>. The facility has the potential to emit CO, VOCs, PM<sub>10</sub> and HAPs below the major emission thresholds. The facility is subject to all applicable regulatory requirements of Reasonably Available Control Technology for NO<sub>x</sub> emissions. The proposed Title V Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**18-00003: PPL Martins Creek, LLC** (2 North Ninth Street, Allentown, PA 18101-1179) for renewal of the Title V operating permit for the Lock Haven combustion turbine site in Bald Eagle Township, **Clinton County**. The facility is currently operating under Title V operating permit 18-00003, which was issued February 5, 1998. The facility's main sources include a #2 fuel oil fired combustion turbine and a 100,000 gallon #2 fuel oil tank, which have the potential to emit major quantities of NO<sub>x</sub> and SO<sub>x</sub>. The facility has the potential to emit CO, VOCs, PM<sub>10</sub> and HAPs below the major emission thresholds. The facility is subject to all applicable regulatory requirements of Reasonably Available Control Technology for NO<sub>x</sub> emissions. The proposed Title V Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**03-00076. Dominion Peoples** (625 Liberty Avenue, Pittsburgh, PA 15222) at Girty Station in South Bend Township, **Armstrong County**.

The Girty compressor station is primarily used for the storage and distribution of natural gas. As a result of the levels of NO<sub>x</sub> emitted, Girty is a major stationary source as defined in Title I, Part D of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**16-00133: Clarion Bathware, Inc.** (16273 Route 208, Marble, PA 16334) for the reissuance of a Title V Permit to operate a fiberglass bathware manufacturing facility in Washington Township, **Clarion County**. The facility's major emission sources include the resin and gelcoat operations. The facility is a major facility due to its potential to emit of VOCs and styrene.

**61-00181: Scrubgrass Power, Scrubgrass Generating Plant** (2151 Lisbon Road, Kennerdell, PA 16374) for a Title V Operating Permit Reissuance to operate an electric energy generating facility in Scrubgrass Township, **Venango County**.

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**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**15-00086: Bakery Feeds** (97 Westbrook Drive, Honey Brook, PA 19344) on October 4, 2002, for operation of a Synthetic Minor Operating Permit in Honeybrook Township, **Chester County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.*

**40-303-011A: Slusser Brothers Trucking and Excavating Co.** (Evans Asphalt Plant, 125 North Warren Street, West Hazleton, PA 18201-3697) for the use of waste derived liquid fuel (recycled oil) in their batch asphalt plant in Hanover Township, **Luzerne County**.

**54-303-015A: Pennsy Supply, Inc.** (Summit Asphalt, P. O. Box 3331, Harrisburg, PA 17104-3331) for the use of waste derived liquid fuel (recycled oil) in their batch asphalt plant in Wayne Township, **Schuylkill County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**21-05035: Hempt Brothers, Inc.** (205 Creek Road, Camp Hill, PA 17011) on October 7, 2002, for operation of its Locust Point Asphalt Plant in Silver Spring Township, **Cumberland County**.

**38-03019: Allied Veterinary Cremation LTD** (719 Woodlawn Road, Palmyra, PA 17078-9734) for operation of two crematories in South Londonderry Township, **Lebanon County**. The facility has the potential to emit 2 tons per year of NO<sub>x</sub> and about 1 ton per year of CO, particulate matter, VOC and SO<sub>x</sub>. The Natural Minor Operating Permit shall contain additional testing, monitoring, recordkeeping and reporting requirements, emis-

sion restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**21-05036: Hempt Brothers, Inc.** (205 Creek Road, Camp Hill, PA 17011) on October 7, 2002, for operation of its Camp Hill Asphalt Plant in Lower Allen Township, **Cumberland County**.

**22-05033: Hempt Brothers, Inc.** (205 Creek Road, Camp Hill, PA 17011) on October 7, 2002, for operation of its Steelton Asphalt Plant in Steelton Borough, **Dauphin County**.

**36-05123: Wyeth Laboratories, Inc.** (P. O. Box 304, Marietta, PA 17547) on October 7, 2002, for operation of a pharmaceutical manufacturing facility in East Donegal Township, **Lancaster County**.

**67-03048: L and W Demolition Co., Inc.** (2224 Paxton Street, Harrisburg, PA 17111) on October 4, 2002, for operation of a demolition waste recycling facility in Franklin Township, **York County**.

**67-03079: Hercon Laboratories Corp.** (P. O. Box 467, Emigsville, PA 17318-0467) on October 7, 2002, for operation of a pharmaceutical and related cosmetic product facility in Manchester Township, **York County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**20-00256: Weyerhaeuser ChoiceWood** (11117 Skyline Drive, Titusville, PA 16354) for operation of a Natural Minor Operating Permit for their woodworking facility in Oil Creek Township, **Crawford County**.

## MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated before each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment and informal conferences).

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the previous, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the previously-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

#### *Coal Applications Received*

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**17020114. Sky Haven Coal, Inc.,** R. D. 1, Box 180, Penfield, PA 15849. Commencement, operation and restoration of a bituminous surface mine-auger permit in Bradford Township, **Clearfield County** affecting 193.5 acres. Receiving streams: Sulphur Run, classified for CWF. The first potable water supply intake from the point of discharge is: none. Application received October 2, 2002.

**17000109 and NPDES Permit No. PA0242985. Kenneth K. Rishel & Sons, Inc.,** 1229 Turnpike Avenue, Clearfield, PA 16830. Revision to an existing bituminous surface mine permit to change the acreage from 20.0 acres to 29.3 acres and to add auger mining. The permit is located in Lawrence Township, **Clearfield County**. Receiving streams: Orr's Run and unnamed stream to Orr's Run, classified for CWF. Application received September 24, 2002.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**11850102 and NPDES Permit No. PA0608483. Cooney Brothers Coal Company,** Box 246, Cresson, PA 16630, permit renewal for continued operation of a bituminous surface mine and for discharge of treated mine drainage in Gallitzin and Logan Townships, **Cambria and Blair Counties**, affecting 225.0 acres. Receiving streams: unnamed tributaries to Little Laurel Run classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 7, 2002.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**33020105 and NPDES Permit No. PA0242195. P. and N. Coal Co., Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Commencement, operation and restoration of a bituminous surface strip and auger operation in Knox Township, **Jefferson County** affecting 128.0 acres. Receiving streams: unnamed tributaries to Five Mile Run, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application to include a landuse change from noncommercial forestland to unmanaged wildlife habitat on lands of John A. Kudla. Application received October 4, 2002.

**1192-33020105-E-1. P. and N. Coal Co., Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Application for a stream encroachment to relocate and reconstruct unnamed tributary no. 4 to Five Mile Run for the purpose of abating some polluting deep mine discharges in Knox Township, **Jefferson County** affecting 128.0 acres. Receiving streams: unnamed tributaries to Five Mile Run, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 4, 2002.

**33020106 and NPDES Permit No. PA0242209. MSM Coal Company, Inc.** (P. O. Box 243, DuBois, PA 15801). Commencement, operation and restoration of a bituminous surface strip operation in Union Township, **Jefferson County** affecting 33.8 acres. Receiving streams: unnamed tributary to Little Mill Creek and unnamed tributary to Coder Run, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 7, 2002.

**10020104 and NPDES Permit No. PA0242217. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Commencement, operation and restoration of a bituminous surface strip and auger operation in Clay Township, **Butler County** affecting 535.0 acres. Receiving streams: unnamed tributary to Findlay Run, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 4, 2002.

**1475-10020104-E-1. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application for a stream encroachment to construct and maintain a haul road stream crossing over Findlay Run in Clay Township, **Butler County** affecting 535.0 acres. Receiving streams: unnamed tributary to Findlay Run, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 4, 2002.

**1475-10020104-E-2. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application for a stream encroachment to construct and maintain a haul road crossing over unnamed tributary no. 3 to Findlay Run in Clay Township, **Butler County** affecting 535.0 acres. Receiving streams: unnamed tributary to Findlay Run, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 4, 2002.

**1475-10020104-E-3. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application for a stream encroachment to mine through and replace a section of unnamed tributary no. 4 to Findlay Run. This section is located from a point approximately 150 feet upstream from the confluence with Findlay Run thence continuing upstream a distance of approximately 900 feet in Clay Township, **Butler County** affecting 535.0 acres. Receiving streams: unnamed tributary to Findlay Run, classified



for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 4, 2002.

#### *Noncoal Applications Received*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**38020302 and NPDES Permit PA0224243. Haines & Kibblehouse, Inc.** (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474), commencement, operation and restoration of a quarry operation in Cornwall Borough, **Lebanon County** affecting 23.1 acres, receiving stream: Snitz Creek, classified for TSF. The first downstream potable water supply intake from the point of discharge is Elizabethtown Borough. Application received September 24, 2002.

**01930301C and NPDES Permit PA0595591. Valley Quarries, Inc.** (P. O. Box J, Chambersburg, PA 17201), renewal of NPDES Permit in Hamiltonban Township, **Adams County**, receiving streams: Middle Creek and Spring Run; classified for CWF. Application received October 4, 2002.

**45900303C and NPDES Permit PA0595276. Middle Smithfield Materials, Inc.** (P. O. Box 674, Bushkill, PA 18324), renewal of NPDES Permit in Middle Smithfield Township, **Monroe County**, receiving stream: Suise Creek; classified for CWF. Application received October 7, 2002.

**7975SM4C4 and NPDES Permit PA0594270. Edison Quarry, Inc.** (25 Quarry Road, Doylestown, PA 18901), depth correction for an existing quarry operation in Doylestown Township, **Bucks County** affecting 17.7 acres, receiving stream: Neshaminy Creek; classified for TSF. Application received October 7, 2002.

**21020301 and NPDES Permit PA0224251. Pennsy Supply, Inc.** (1001 Paxton Street, Harrisburg, PA 17104), commencement, operation and restoration of a quarry operation in Penn Township, **Cumberland County** affecting 251.78 acres, receiving stream: unnamed intermittent tributary to Mount Rock Spring Creek; classified for WWF. Application received October 9, 2002.

### **FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401**

The following permit applications and requests for Environmental Assessment approval and requests for Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Initial requests for 401 Water Quality Certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice as well as questions to the office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between the hours of 8 a.m. and 4 p.m. on each working day at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### **Applications Received under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and Requests for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

#### **WATER OBSTRUCTIONS AND ENCROACHMENTS**

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E15-644. Chester Valley Golf Club**, 430 Swedesboro Road, Malvern, PA 19355, East Whiteland Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain facilities associated with the stream bank rehabilitation plan for the Chester Valley Golf Club for the following activities. The works will take place along two unnamed tributaries to Valley Creek (EV) which traverse the golf club located along Swedesford Road between the SR 202 overpass and Church Road (Malvern, PA Quadrangle N: 7.8 inches; W: 8.8 inches).

1. To regrade the stream banks and to place and maintain approximately 100 linear feet of riprap at two locations.
2. To relocate a stream through a stone pond (nonjurisdictional dam) near the pump house.
3. To replace and maintain an existing culvert with a 12-foot by 4-foot 6-inch corrugated metal arch bridge.
4. To install and maintain a bulkhead along the main pond to stabilize its banks.
5. To stabilize and maintain approximately 560 linear feet of stream bank in various locations with biologists and vegetation.
6. To modify and maintain an existing pedestrian path stream crossing by installing macadam curb along its length.
7. To install and maintain 200 linear feet of gabion stream bank stabilization at three locations.
8. To install a sluice gate at a pond inflow pipe and to construct a diversion berm to redirect stream flow beneath an existing golf Cart Bridge along the 1st Fairway.
9. To include the Trout Unlimited Growing Greener sponsored project that involves the stabilization and maintenance of approximately 300 linear feet of the banks, construction of gabion walls and removal of debris from the westerly tributary located south of the golf course.



*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E58-250. Jessup Township**, R. R. 5, Box 225, Montrose, PA 18801, in Jessup Township, **Susquehanna County**, U. S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and to construct and maintain a single-span prestressed concrete box beam bridge, having a span of 48.3 feet and an underclearance of 6.8 feet, across East Branch Wyalusing Creek (CWF). The project will impact a de minimis area of wetlands equal to 0.04 acre. The bridge (known as Jessup Township Bridge No. 1) is located along T-684 (Ainey Road), approximately 500 feet north of SR 0706 (Montrose West, PA Quadrangle N: 12.0 inches; W: 8.6 inches).

**E48-332. Greenfield Builders**, 9525 Delegate's Row, Indianapolis, IN 46240, in Lower Nazareth Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a stormwater outfall structure consisting of three 27-inch x 43-inch CMP arch pipes in the floodway of Monocacy Creek (HQ-CWF). The project is associated with the proposed Greenfield/Ashley Warehouse Project and is located northeast of the intersection of SR 3014 (Hanoverville Road) and Keystone Drive (Nazareth, PA Quadrangle N: 11.8 inches; W: 15.6 inches).

**E40-612. Borough of Harveys Lake**, P. O. Box 60, Harveys Lake, PA 18618, in Harveys Lake Borough, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To excavate within the channel and floodway and to maintain the restored channel along a 1,200-foot reach of Harveys Creek (HQ-CWF), for the purpose of restoring the hydraulic capacity of the reach. The project was previously authorized by Permit No. E40-430. The project extends from a point 255 feet downstream of the SR 0415 bridge at the outlet of Harveys Lake, downstream to the Outlet Drive Bridge (Harveys Lake, PA Quadrangle N: 18.4 inches; W: 7.2 inches).

**E45-437. Skytop Lodges, Inc.**, 1 Skytop, Skytop, PA 18357, in Barrett Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a pedestrian bridge having a single span of approximately 58 feet and maximum underclearance of approximately 6 feet across Leavitt Branch (HQ-CWF) and to construct and maintain a 15-inch diameter water intake structure in Mountain Lake and adjacent wetlands. The wetland encroachment is de minimis and less than 0.01 acre. The projects are located at Skytop Lodge on the west side of SR 0390 (Skytop, PA Quadrangle N: 18.7 inches; W: 15.6 inches).

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E02-1219-A1. Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. Jefferson Hills Borough, **Allegheny County**, ACOE Pittsburgh District.

To amend Permit E02-1219. Permit E02-1219 authorizes the removal of existing structures; to widen and maintain a prestressed concrete box beam bridge having a single span of 87.5 feet and an underclearance of 11.0 feet over Peters Creek (TSF); to construct and maintain a 375.0 foot long soldier beam wall in Lewis Run (TSF); to construct and maintain a dual cell 15.0 feet x 7.3 feet box culvert (depressed 10.0 inches) in Lewis Run; to construct

and maintain a reinforced concrete 28.0 feet x 8.5 feet box culvert (depressed 12.0 inches) in Lewis Run; to widen and maintain a concrete T-beam bridge having a single span of 24.0 feet and an underclearance of 7.7 feet over Lewis Run; to extend and maintain a reinforced concrete 20.0 feet x 10.5 feet arch culvert from 120.0 feet to 135.0 feet in Lewis Run; to extend and maintain a reinforced concrete 20.0 feet x 10.5 feet arch culvert from 110.0 feet to 112.0 feet in Lewis Run; to construct and maintain a precast concrete 20.9 feet x 6.9 feet arch culvert having a total length of 40.0 feet in Lewis Run; to construct and maintain a 970 foot long soldier beam wall in Lewis Run; to construct and maintain a reinforced concrete 23.0 feet x 7.5 feet box culvert (depressed 12.0 inches) and having a length of 97.0 feet in Lewis Run; to construct and maintain a 48 inch reinforced concrete culvert having a length of 80.0 feet in a tributary to Lewis Run; to widen and maintain a prestressed box beam bridge having a single span of 26.0 feet and an underclearance of 8.0 feet in Lewis Run; to extend and maintain a reinforced concrete 18.0 feet x 8.4 feet arch culvert from 90.0 feet to 95.0 feet in a tributary to Lewis Run; to relocate and maintain 845.0 linear feet of Lewis Run; to construct and maintain 2,932.0 linear feet of rock bank stabilization in Lewis Run and 50.0 linear feet of rock stabilization in a tributary to Lewis Run, to grade and stabilize the hillside behind the Blue Flame Restaurant, construct and maintain a 360 feet long gabion wall along the left bank of Lewis Run; to extend and maintain a 4 feet x 4 feet RC Box culvert from 64 feet to 81.5 feet in a tributary to Lewis Run, to construct and maintain a 42 inch RCCP culvert having a length of 82 feet in a tributary to Lewis Run, to place and maintain fill in 0.01 acre of palustrine emergent wetlands for the purpose of widening and improving 2.28 miles of SR 0051 in conjunction with the construction of the Mon/Fayette Expressway project (SR 0043) Construction Section 52M. The project is located along SR 0051 from the Village of Large extending northward 2.28 miles to a point approximately 1,000 feet north of Coal Valley Road. The applicant has constructed wetlands under the authorization of Permit E02-1132. This amendment transfers the operation and maintenance of all of the activities in the original permit to permit E02-1398 except for the following activities: to operate and maintain the stabilization to the hillside behind the Blue Flame Restaurant; the operation and maintenance of the 360 feet long gabion wall along the left bank of Lewis Run; the operation and maintenance of the precast concrete 20.9 feet x 6.9 feet arch culvert having a total length of 40.0 feet in Lewis Run; the operation and maintenance of the 970 foot long soldier beam wall in Lewis Run. (Project starts at Glassport, PA Quadrangle N: 7.5 inches; W: 5.5 inches and project ends at Glassport, PA Quadrangle N: 12.0 inches; W: 9.0 inches).

**E02-1398. Pennsylvania Department of Transportation, Engineering District 11-0**, 45 Thoms Run Road, Bridgeville, PA 15017-2853. Jefferson Hills Borough, **Allegheny County**, ACOE Pittsburgh District.

To operate and maintain a prestressed concrete box beam bridge having a single span of 87.5 feet and an underclearance of 11.0 feet over Peters Creek (TSF); to operate and maintain a 375.0 foot long soldier beam wall in Lewis Run (TSF); to operate and maintain a dual cell 15.0 feet x 7.3 feet box culvert (depressed 10.0 inches) in Lewis Run; to operate and maintain a reinforced concrete 28.0 feet x 8.5 feet box culvert (depressed 12.0 inches) in Lewis Run; to operate and maintain a concrete T-beam bridge having a single span of 24.0 feet and an

underclearance of 7.7 feet over Lewis Run; to operate and maintain a reinforced concrete 20.0 feet x 10.5 feet arch culvert 135.0 feet long in Lewis Run; to operate and maintain a reinforced concrete 20.0 feet x 10.5 feet arch culvert 112.0 feet long in Lewis Run; to operate and maintain a reinforced concrete 23.0 feet x 7.5 feet box culvert (depressed 12.0 inches) and having a length of 97.0 feet in Lewis Run; to operate and maintain a 48 inch reinforced concrete culvert having a length of 80.0 feet in a tributary to Lewis Run; to operate and maintain a prestressed box beam bridge having a single span of 26.0 feet and an underclearance of 8.0 feet and 100 feet long in Lewis Run; to operate and maintain a reinforced concrete 18.0 feet x 8.4 feet arch culvert 95.0 feet long in a tributary to Lewis Run; to operate and maintain 845.0 linear feet of relocated Lewis Run; to operate and maintain 2,932.0 linear feet of rock bank stabilization in Lewis Run and 50.0 linear feet of rock stabilization in a tributary to Lewis Run; to operate and maintain six outfalls to Peters Creek and 26 outfalls to Lewis Run; to maintain fill in 0.01 acre of palustrine emergent wetlands. This work was done as part of the widening and improving 2.28 miles of SR 0051 in conjunction with the construction of the Mon/Fayette Expressway Project (SR 0043) Construction Section 52M authorized under permit E02-1219. The project is located along SR 0051 from the Village of Large extending northward 2.28 miles to a point approximately 1,000 feet north of Coal Valley Road. The wetlands have been replaced along Peters Creek under the authorization of permit E02-1132 (project starts at Glassport, PA Quadrangle N: 7.5 inches; W: 5.5 inches and the project ends at Glassport, PA Quadrangle N: 12.0 inches; W: 9.0 inches).

**E02-1399. Allegheny County Department of Public Works,** Room 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219-5386. West Deer Township, **Allegheny County,** ACOE Pittsburgh District.

To remove accumulated sedimentation from six locations, to construct and maintain two fish mounds, to construct and maintain three aeration diffusers, to construct and maintain handicap access paths around Lake No. 3. To remove existing structures and to construct and maintain five replacement bridges across tributaries to Little Deer Creek (TSF), as part of the Deer Lake Parks improvements to aquatic habitat to Lake No. 3. The project is located on the south side of Mehaffey Road (SR 1019) approximately 1,200 feet northeast of its intersection with Little Deer Creek Valley Road (SR 1015) (New Kensington West, PA Quadrangle N: 21.7 inches; W: 10.8 inches).

**E02-1400. Attawheed Foundation, Inc.,** 1597 Banksville Road, Pittsburgh, PA 15216. Greentree Borough, **Allegheny County,** ACOE Pittsburgh District.

To operate and maintain a single cell reinforced concrete box culvert with a span of 12' and underclearance of 6' and a length of 13' across Whiskey Run (WWF) and to construct and maintain a single cell precast box culvert with a span of 12' and underclearance of 6' extension for a distance of 10', to provide access to a proposed Attawheed Foundation Community Center. Also, to construct and maintain an outfall structure to Whiskey Run. The project is located on the south side of Glencoe Avenue approximately 2,500' upstream of where Whiskey Run goes under Route 279 (Pittsburgh West, PA Quadrangle N: 6.3 inches; W: 8.2 inches).

**E26-300. Fairchance Construction Company,** P. O. Box 535, Fairchance, PA 15436. South Union Township, **Fayette County,** ACOE Pittsburgh District.

To construct and maintain a multiple steel pipe arch culvert having three cells of 72 inches by 54 inches, 103 inches by 71 inches and 84 inches by 61 inches (invert depressed 1 foot) in an unnamed tributary to Redstone Creek (WWF) under a road in the proposed residential development (Fox Spur Subdivision). The project is located along Brownfield Lane approximately 2,500 feet north of Brownfield Road (Brownfield, PA Quadrangle N: 22.2 inches; W: 13.7 inches).

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## ACTIONS

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### FINAL ACTIONS TAKEN UNDER THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS

#### INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

The Department of Environmental Protection has taken the following actions on previously received permit applications and requests for plan approval.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audio tape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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#### I. Municipal and Industrial Permit Actions under The Clean Streams Law (35 P. S. §§ 691.1— 691.1001).

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*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**NPDES Permit No. PA0056804,** Industrial Waste, **Forest Park Water,** 144 Park Avenue, P. O. Box 317, Chalfont, PA 18914. This proposed facility is located in Chalfont Borough, **Bucks County.**

Description of Proposed Action/Activity: Renewal to discharge into Pine Run-Neshaminy Creek-2F.

**NPDES Permit No. PA0052035**, Sewage, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Proposed Action/Activity: Renewal and amendment to discharge into Delaware River—2E-Common.

**NPDES Permit No. PA0058572**, Sewage, **Penn Township**, 260 Lewis Road, P. O. Box 39, West Grove, PA 19390. This proposed facility is located in Penn Township, **Chester County**.

Description of Proposed Action/Activity: Approval to discharge into an unnamed tributary to least Branch of Big Elk Creek-White Clay-3I.

**NPDES Permit No. PA0027103 Amendment No. 1**, Sewage, **Delaware County Regional Water Quality Control Authority**, 3201 West Front Street, Chester, PA 19016. This proposed facility is located in City of Chester, **Delaware County**.

Description of Proposed Action/Activity: Amend existing permit to reflect revised limits for total residual chlorine discharging into Delaware River (Zone 4)-3G Watershed.

**NPDES Permit No. PA0042943**, Sewage, **Owen J. Roberts School District**, 901 Ridge Road, Pottstown, PA 19465. This proposed facility is located in East Coventry Township, **Chester County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary to Schuylkill River-3D.

**WQM Permit No. 1502411**, Sewerage **Upper Uwchlan Township Municipal Authority**, 140 Pottstown Pike, Chester Spring, PA 19425. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of temporary pump station and force main to serve the proposed Eagle Hunt subdivision.

**WQM Permit No. 1502403**, Sewerage, **Upper Uwchlan Township**, 140 Pottstown Pike, Chester Spring, PA 19425. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of an oxidation pond followed by a subsurface drip irrigation system.

**WQM Permit No. 4602407**, Sewerage, **Limerick Township Municipal Authority**, 529 King Road, Royersford, PA 19468. This proposed facility is located in Limerick Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of sewage pump station and force main to serve the Heritage Hills Golf Club subdivision.

**WQM Permit No. 2302403**, Sewerage, **Newtown Township**, 209 Bishop Hollow Road, Newtown, PA 18940. This proposed facility is located in Newtown Township, **Delaware County**.

Description of Proposed Action/Activity: Construction and operation of sewage treatment plant and two pump stations.

**WQM Permit No. 1502414**, Sewerage, **East Marlborough Township**, 721 Unionville Road, Kennett Square, PA 19348. This proposed facility is located in East Marlborough Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of sewage pump station and force main to serve the proposed Schoolhouse Lane Subdivision.

**WQM Permit No. 0984422A2**, Sewerage, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation to upgrade and expand pump station.

**WQM Permit No. 1597405**, Sewerage, **Landis and Graham Partnership**, 310 North High Street, West Chester, PA 19382. This proposed facility is located in West Vincent Township, **Chester County**.

Description of Proposed Action/Activity: Renewal of permit for subsurface disposal of 6,700 gpd of treated sewage through infiltration beds.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**NPDES Permit No. PA0029289**, Sewage, **Borough of Stroudsburg**, 700 Sarah Street, Stroudsburg, PA 18360. This proposed facility is located in Borough of Stroudsburg, **Monroe County** and discharge to McMichael Creek.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

**NPDES Permit No. PA0062316**, Sewage, **Blue Mountain Village Sales, Inc.**, 1 Blue Mountain Village, Saylorsburg, PA 18353. This proposed facility is located in Ross Township, **Monroe County** and discharge to Aquashicola Creek.

Description of Proposed Action/Activity: Renewal of NPDES permit.

**WQM Permit No. 3501401**, Sewerage, **Jefferson Township Sewer Authority**, R. R. 3, Box 394A, Lake Ariel, PA 18436. This proposed facility is located in Jefferson Township, **Lackawanna County**.

Description of Proposed Action/Activity: the construction of sewage collection system and pumping stations.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**NPDES Permit No. PA0246646**, Sewage, **Copart Auto Auction STP**, Eight Park Drive, Grantville, PA 17028. This proposed facility is located in East Hanover Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of Swatara Creek in Watershed 7-D.

**NPDES Permit No. PA0111350**, Sewage, **Borough of Petersburg**, P. O. Box 6, Petersburg, PA 16669-0006. This proposed facility is located in Logan Township, **Huntingdon County**.

Description of Proposed Action/Activity: Authorization to discharge to Shaver Creek in Watershed 11-B.

**NPDES Permit No. PA0087476**, Sewage, **Oasis of Love Church**, R. D. 1, Box 251-A1, Saxton, PA 16678. This proposed facility is located in Carbon Township, **Huntingdon County**.

Description of Proposed Action/Activity: Authorization to discharge to House Run in Watershed 11-D.

**WQM Permit No. 0246646**, Sewerage, **Copart Auto Auction**, Eight Park Drive, Grantville, PA 17028. This proposed facility is located in East Hanover Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewage treatment facilities.

**NPDES Permit No. PA0083526**, Industrial Waste, **R. H. Sheppard Co., Inc.**, 101 Philadelphia Street, Hanover, PA 17331. This proposed facility is located in Hanover Borough, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of Oil Creek in Watershed 7-H.

**NPDES Permit No. PA0087891 Amendment No. 1**, Industrial Waste, **Agway, Inc., Andgrow Fertilizer Facility**, P. O. Box 4741, Syracuse, NY 13221. This proposed facility is located in Latimore Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to a drainage swale tributary to Mud Run in Watershed 7-F.

**NPDES Permit No. PA0010375 Amendment No. 1**, Industrial Waste, **Lehigh Cement Company**, 200 Hokes Mill Road, York, PA 17404. This proposed facility is located in West Manchester Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of Codorus Creek in Watershed 7-H.

**NPDES Permit No. PA0246859**, CAFO, **Amos Lynn Hoover, Hickory Lane Farm**, R. D. 1, Box 706, Blain, PA 17006. This proposed facility is located in Jackson Township, **Perry County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a swine/steer CAFO in Watershed 7-A.

**NPDES Permit No. PA0246701**, CAFO, **Norman J. and Mark J. Sollenberger, Sollenberger Brothers**, 820 Salemville Road, New Enterprise, PA 16664. This proposed facility is located in South Woodbury Township, **Bedford County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a dairy/swine CAFO in Watershed 11-D.

**NPDES Permit No. PA0246719**, CAFO, **Pleasant View Farms, Inc.**, R. D. 1, Box 124, Martinsburg, PA 16662. This proposed facility is located in North Woodbury Township, Taylor Township and Martinsburg Borough in **Blair County** and Bloomfield Township in **Bedford County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a dairy CAFO in Watershed 11-A.

**WQM Permit No. 2902403**, CAFO, **Fowler Farm, Inc.**, 1359 Hanks Road, Crystal Spring, PA 15536-8609. This proposed facility is located in Brush Creek Township, **Fulton County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization for the construction and operation of manure storage facilities.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 4902403**, Sewerage, **Milton Regional Sewer Authority**, P. O. Box 433, Milton, PA

17847. The existing facilities are located in Milton Borough, **Northumberland County**.

Description of Proposed Action/Activity: The municipalities of Milton Borough, West Chillisquaque Township, Turbot Township and East Chillisquaque Township recently joined together in the treatment of the area's wastewater and formed the Milton Regional Sewer Authority. This permit action transfers all permits previously issued to the Milton Borough to the Milton Regional Sewer Authority.

**WQM Permit No. 4902402**, Sewerage, **Milton Regional Sewer Authority**, P. O. Box 433, Milton, PA 17847. The existing facilities are located in Milton Borough, **Northumberland County**.

Description of Proposed Action/Activity: The municipalities of Milton Borough, West Chillisquaque Township, Turbot Township and East Chillisquaque Township recently joined together in the treatment of the area's wastewater and formed the Milton Regional Sewer Authority. This permit action transfers all permits previously issued to the Milton Municipal Authority to the Milton Regional Sewer Authority.

**WQM Permit No. 5902409**, Sewerage 4952, **Duncan Township Supervisors**, P. O. Box 908 Wellsboro, PA 16901. This proposed facility is located in the village of Antrim, Duncan Township, **Tioga County**.

Description of Proposed Action/Activity: Construction of a wastewater collection and treatment system that includes 15,000 LF of conventional gravity sewer, 3,000 LF of force main sewer, two major pump stations, four residential grinder pump stations and a 0.030 MGD RBC wastewater treatment facility.

**NPDES Permit No. PA0113824**, Sewerage SIC 4952, **GSP Management Company**, P. O. Box 677, Morgantown, PA 19543-0677. This facility is located in Upper Fairfield Township, **Lycoming County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit for the discharge of 0.019 MGD of treated sewage from the sewage treatment plant serving the Tiadaghton View Mobile Home Park. Discharge is to Kaiser Hollow.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**NPDES Permit No. PA0037915**, Industrial Waste, **Fish and Boat Commission, Tionesta Fish and Boat Commission**, 1225 Shiloh Road, State College, PA 16801-8495. This proposed facility is located in Tionesta Township, **Forest County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Tubbs Run and the Allegheny River.

**NPDES Permit No. PA0103811**, Industrial Waste, **Northwest Sanitary Landfill, Waste Management Disposal Services of PA, Inc.**, 1436 West Sunbury Road, West Sunbury, PA 16061. This proposed facility is located in Cherry Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Findley Run and unnamed tributary to South Branch Slippery Rock Creek.

**NPDES Permit No. PA0024856**, Sewage, **Taylor Township Sewer Authority**, P. O. Box 489, West Pittsburgh, PA 16160-0489. This proposed facility is located in Taylor Township, **Lawrence County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Beaver Run.

**WQM Permit No. 2002201**, Industrial Waste, **R. H. Watkins Services, Inc.**, 1030 Market Street, Meadville, PA 16335. This proposed facility is located in City of Meadville, **Crawford County**.

Description of Proposed Action/Activity: This project is for a biologically enhanced groundwater recirculation treatment system.

#### **NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)**

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing

Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audio tape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS10D114	Lakeview Farms Partnership, LP 215 West Church Road Suite 108 King of Prussia, PA 19406	Bucks County Springfield Township	Tributary of Cooks Creek EV
PAS10G502	Constance Biddle 520 North Newtown Street Road Newtown Square, PA 19073	Chester County Upper Oxford Township	Elk Creek HQ-TSF, MF
PAS10G506	Aegon Corporation 4333 Edgewood Road Northeast Cedar Rapids, IA 52499	Chester County East Whiteland Township	Valley Creek EV
PAS10G532	Lewis Frame P. O. Box 490 Honey Brook, PA 19344	Chester County Honey Brook Township	West Branch Brandywine Creek HQ
PAS105310	Port of Philadelphia and Camden Delaware River Port Authority One Port Center 2 Riverside Drive Camden, NJ 08101-1949	Philadelphia County City of Philadelphia	Delaware River WWF

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS10S110	The Empire Organization 1 Empire Plaza Stroudsburg, PA 18360	Monroe County Pocono Township	Cranberry Creek HQ-CWF
PAS10V041	Woodlock Pines, Inc. 2 Woodloch Springs Hawley, PA 18428	Pike County Lackawaxen Township	Falls Creek Unnamed tributary to Teedyuskung Lake HQ-CWF
PAS107425	SEM Realty, Inc. R. R. 4, Box 182 Honesdale, PA 18431	Wayne County Texas Township	Unnamed tributary to Holbert Creek Lackawaxen River HQ-CWF

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

<i>NPDES Permit</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10X103	Dominion Exploration & Production, Inc. 1380 Route 286 Highway East Suite 303 Indiana, PA 15701	Westmoreland County Bell and Washington Township	Beaver Run HQ-CWF

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS103315	Falls Creek Borough Municipal Authority P. O. Box 418 117 Taylor Avenue Falls Creek, PA 15840	Jefferson County Washington Township	Falls Creek
PAS107206	Kinzua-Warren Co. Joint Authority P. O. Box 412 Clarendon, PA 16313	Warren County Mead and Pleasant Townships	Allegheny River CWF West Branch Tionesta Creek HQ-CWF

#### **APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS**

The following parties have submitted: (1) Notices of Intent for Coverage under (1) General NPDES Permits to Discharge Wastewater into the Waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in this Commonwealth; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

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#### **List of NPDES and/or Other General Permit Types**

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PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

*General Permit Type—PAG 2*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Butler County Cranberry Township	PAR10E012-RR	JGR Development Co., Inc. Suite 300 9370 McKnight Road Pittsburgh, PA 15237	Connoquenessing Creek WWF	Butler Conservation District (724) 284-5270
Erie County Greene County	PAR10K204	David Tomczak 9485 Old Waterford Rd. Erie, PA 16509	UNT to East Branch LeBoeuf Creek TSF	Erie Conservation District (814) 825-6403
Solebury Township Bucks County	PAR10D613	Lucus Construction 21 Marian Circle Chalfont, PA 18914	UNT to Delaware River WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
West Rockhill Township Bucks County	PAR10D637	Lutheran Community 235 Washington Avenue Telford, PA 18969	East Branch Perkiomen Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Richland Township Bucks County	PAR10D681	Ryan Homes, Inc. P. O. Box 1589 Doylestown, PA 18901	Beaver Run WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Richland Township Bucks County	PAR10D514-1	Frank Kelly 130 Buck Road Holland, PA 18966	Tohickon Creek TSF, CWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Newtown Township Bucks County	PAR10D667	Robert Pelligrino 100 Municipal Center Newtown, PA 18940	Newtown Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
New Hope Borough Bucks County	PAR10D691	New Hope-Solebury School District 180 West Bridge St. New Hope, PA 18938	Delaware River WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Middletown Township Bucks County	PAR10D586-1	James Butz 8230 Boone Boulevard Vienna, VA 22182	Mill Creek WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Doylestown Township Bucks County	PAR10D571	County of Bucks Office of Commissioners 55 East Court Street Doylestown, PA 18901	UNT Neshaminy Creek TSF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Hilltown Township Bucks County	PAR10D628	Metro Development 232-234 North 22nd Street Philadelphia, PA 18103	UNT Mill Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Warminster Township Bucks County	PAR10D618	Ericson Retirement 703 Maiden Choice Lane Baltimore, MD 21228	Pennypack Creek WWF, MF, TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Quakertown Borough Bucks County	PAR10D669	Grosse Development 762 Main Street Lansdale, PA 19446	UNT Beaver Run Creek CWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lower Makefield Township Bucks County	PAR10D673	Lower Makefield Township 1100 Edgewood Road Yardley, PA 19067	Dyers Creek and Delaware River WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
New Garden Township Chester County	PAR10G512	BHC Ventures 909 Delaware Avenue Wilmington, DE 19899	Tributary to Bucktoe Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Caln Township Chester County	PAR10G495	Park Family/Schoolhouse Realty Associates 1595 Paoli Pike, Suite 202 West Chester, PA 19382-1906	East Branch Brandywine Creek WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
West Bradford Township Chester County	PAR10G494	Genterra Corporation 101 Marchwood Road Exton, PA 19341	UNT to East Branch Brandywine Creek WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Easttown Township Chester County	PAR10G497	Hill Group, LLC 4 Raymond Drive Havertown, PA 19083	Tributary to Darby Creek CWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Atglen Borough Chester County	PAR10G491	O'Neill Land Holding LLC 144 Fairville Road Chadds Ford, PA 19317	Valley Creek TSF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Brandywine and Caln Townships Chester County	PAR10G457	TR Moser Builders, Inc. 1171 Lancaster Ave. Suite 201 Berwyn, PA 19312	Tributary to Beaver Creek TSF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Schuylkill Township Chester County	PAR10G503	James Brandolini 1200 Burning Bushmill Lane West Chester, PA 19380	French Creek TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Chichester Township Delaware County	PAR10J245	William Dalusio 1244 West Chester Pike West Chester, PA 19382	Bezors Run WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Horsham Township Montgomery County	PAR10T815	Stanbery Acquisitions LLC 1313 West Lane Ave. Suite D Columbus, OH 43221	Trewellyn and Wissahickon Creeks TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Salford Township Montgomery County	PAR10T884	WB Homes, Inc. 404 Sumneytown Pk. Suite 200 North Wales, PA 19454	Perkiomen Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000



<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Lower Salford Township Montgomery County	PAR10T894	Better Living Homes, Inc. 101 Green Briar Road Lansdale, PA 19466	Unnamed tributary to East Branch Perkiomen Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Luzerne County Wilkes-Barre Township	PAR10R261	R. B. Wilkes-Barre, LLC 810 Seventh Ave. 28th Floor New York, NY 10019	Coal Brook CWF	Luzerne County Conservation District (570) 674-7991
Perry Township Berks County	PAR10C431	Dale Martin Quail Ridge LLC P. O. Box 435 Myerstown, PA 17067	Unnamed tributary to Maiden Creek TSF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Heidelberg Township Berks County	PAR10C438	Phil Willman Conrad Weiser Area School District 44 Big Spring Rd. Robesonia, PA 19551	Furnace Creek WWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Shippensburg Township Cumberland County	PAR10H300	Shippensburg University 1871 Old Main Drive Shippensburg, PA 17257	Middle Spring CWF Burd Run CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Derry Township	PAR10I310	Dennis L. Burd 5120 Ravenwood Dr. Mechanicsburg, PA 17055	Swatara Creek	Richard Snyder Dauphin County Conservation District 1451 Peters Mt. Rd. Dauphin, PA 17018 (717) 921-8100
Brush Creek Township	PAS102806	Kin-Du Farms 6995 South Valley Road Crystal Springs, PA 15536	Little Brush Creek HQ-CWF	Seleen Shimer Fulton County Conservation District 216 North Second Street McConnellsburg, PA 17233 (717) 485-3547, Ext. 121
Washington Township	PAR10M272	Charlse M. Long 21 East Arthur Drive Ft. Washington, MD 20744	UNT to Falls Creek WWF	Franklin County Conservation District Admin. Annex 218 N. 2nd Street Chambersburg, PA 17201 (717) 264-8074
Mohnton Borough Berks County	PAR10C057RR	Douglas Young Northridge Dev. Assocs. 137 Chestnut St. Mohnton, PA 19540	Wyomissing Creek CWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Spring Township Berks County	PAR10C435	Steve Carten Reading Terminal Corp. 18 S. George St. York, PA 17401	Cacoosing Creek WWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Beaver County Brighton Township	PAR100298	David Betters P. O. Box 1123 Aliquippa, PA 15001	Fourmile Run WWF	Beaver County Conservation District (724) 774-7090

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Westmoreland County Hempfield Township	PAR10X308	Dominion Exploration & Production 1380 Route 286 Hwy. East Indiana, PA 15701	Brush Creek TSF	Westmoreland County Conservation District (724) 837-5271
<i>General Permit Type—PAG-3</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Hatfield Township Montgomery County	PAR900009	Republic Environmental Systems of PA 2869 Sandstone Dr. Hatfield, PA 19440	UNT to Neshaminy Creek-2F Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
City of Philadelphia Philadelphia County	PAR900013	Philadelphia Water Dept. Aramark Tower 1101 Market St., 4th Flr. Philadelphia, PA 19107	Delaware River-3J Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
City of Philadelphia Philadelphia County	PAR800067	Waste Management of PA, Inc. 1121 Bordentown Rd. P. O. Box 759 Morrisville, PA 19067	Delaware River-3J Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
East Rockhill Township Bucks County	PAR800116	Pennridge School District 1506 N. Fifth St. Perkasie, PA 18944	UNT to Perkiomen Creek-2D Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Lawrence Township Clearfield County	PAR214822	E. M. Brown, Inc. Mt. Joy Road P. O. Box 327 Clearfield, PA 16830	UNT to West Branch Susquehanna River CWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3666
<i>General Permit Type—PAG-4</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Lehigh County Lower Milford Township	PAG042208	Glenn and Patricia Snyder 7667 School House Lane Zionsville, PA 18092-2829	Unnamed tributary to Hosensack Creek	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711
York County Shrewsbury Township	PAG043573	Lewis Hannum 17389 Brose Road New Freedom, PA 17349	Deer Creek CWF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
York County Warrington Township	PAG043694	Nancy Looney 14 Chapin Lane Austin, TX 78746	UNT to Doe Run WWF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
West Cameron Township Northumberland County	PAG045004	Cindy D. Fortune R. D. 2, Box 659 Shamokin, PA 17872	UNT to Mahanoy Creek WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666

*General Permit Type—PAG-6*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Dauphin County Steelton Borough	PAG063501	Borough of Steelton 123 North Front Street Steelton, PA 17113	Susquehanna River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Telephone No.</i>
Jefferson Township Berks County	PAG080003 PAG080006 PAG080008 PAG080009 PAG082201 PAG082203 PAG083501 PAG083502 PAG083506 PAG083515 PAG083517 PAG083518 PAG083522 PAG083542 PAG083547 PAG083551 PAG083825	Syna Gro MidAtlantic 1605 Dooley Rd. P. O. Box B Whiteford, MD 21160	Ella Kiebach Farm Jefferson Township Berks County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Upper Paxton Township Dauphin County	PAG083544	Millersburg Area Authority 101 West Street Millersburg, PA 17061	Earl Wert Farm Upper Paxton Township Dauphin County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-9 (SSN)*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Telephone No.</i>
Porter Township Huntingdon County	PAG093526	Huntingdon Port-a-Potty & Septic R. R. 1, Box 447 Alexandria, PA 16611	Coddington Home Farm Porter Township Huntingdon County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Taylor Township Fulton County	PAG093538	Country Septic SVC 29169 Great Cove Road Fort Littleton, PA 17223	Robert Winegardner Taylor Township Fulton County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-10*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Northampton County Lower Mount Bethel Township	PAG102206	Columbia Gas Transmission Corp. 525 Highland Blvd. Suite 100 Coatesville, PA 19320	Unnamed tributary of Mud Run	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511

**PUBLIC WATER SUPPLY PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the

Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may

be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audio tape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

*Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Operations Permit** issued to **Camelback Ski Corporation**, P. O. Box 168, Tannersville, PA 18372, PWS ID 2450124, Pocono/Jackson Townships, **Monroe County** on September 18, 2002, for the operation of facilities approved under Construction Permit 4500502.

**Operations Permit** issued to **Equitis Group, L. P.**, 1132 Hamilton Street, Suite 303, Allentown, PA 18101, PWS ID 3130035, Mahoning Township, **Carbon County** on October 3, 2002, for the operation of facilities approved under Construction Permit 1398502.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2350034, Roaring Brook Township, **Lackawanna County** on September 20, 2002, for the operation of facilities approved under Construction Permits 3571502, 3586505 and 3590502.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2350029, North Abington Township, **Lackawanna County** on September 20, 2002, for the operation of facilities approved under Construction Permit 165W2.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2350027, Moscow Borough, **Lackawanna County** on September 20, 2002, for the operation of facilities approved under Construction Permit N/A.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2400095, Lehman Township, **Luzerne County** on September 20, 2002, for the operation of facilities approved under Construction Permit 165W8-T1A2.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2350037, South Abington Township, **Lackawanna County** on September 20, 2002, for the operation of facilities approved under Construction Permit 3571503.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2400104, Kingston Township,

**Luzerne County** on September 20, 2002, for the operation of facilities approved under Construction Permits 8906-W-T1 and 4069509-T1.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2450044, Hamilton and Ross Townships, **Monroe County** on September 20, 2002, for the operation of facilities approved under Construction Permits 4582502 and 4585502.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2350025, Glenburn Township, **Lackawanna County** on September 20, 2002, for the operation of facilities approved under Construction Permits 165W1-T1 and 3487502.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2400105, Kingston Township, **Luzerne County** on September 20, 2002, for the operation of facilities approved under Construction Permits 4069508-T1 and Minor Amendment.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2400101, Harveys Lake Borough, **Luzerne County** on September 20, 2002, for the operation of facilities approved under Construction Permit 4069504-T1.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2400102, Lake Township, **Luzerne County** on September 20, 2002, for the operation of facilities approved under Construction Permit 3338-T1.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2450039, Barrett Township, **Monroe County** on September 20, 2002, for the operation of facilities approved under Construction Permit 4586502 and Minor Amendment.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2580010, Brooklyn Township, **Susquehanna County** on September 20, 2002, for the operation of facilities approved under Construction Permits 166W013-T1 and 5786.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2580012, Lenox Township, **Susquehanna County** on September 20, 2002, for the operation of facilities approved under Construction Permits 162W4 and 5890511.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2660017, Tunkhannock Township, **Wyoming County** on September 20, 2002, for the operation of facilities approved under Construction Permits 6673501-T1, 6681501-T1, 6688501 and 6696501.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489, PWS ID 2660036, Factoryville Borough, **Wyoming County** on September 20, 2002, for the operation of facilities approved under Construction Permits 6670501, 6684501 and 6686502.

**Operations Permit** issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr,

PA 19010-3489, PWS ID 2350055, South Abington Township, **Lackawanna County** on September 20, 2002, for the operation of facilities approved under Construction Permits 3590507 and 3590507-T1.

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 4146363**, Public Water Supply.

Applicant	<b>Harmony Brook d/b/a Culligan Store Solutions</b> 1030 Lone Oak Road Suite 110 Eagan, MN 55121-2251
Borough and Township	State College Borough and College Township, <b>Centre County</b> and Loyalsock Township, <b>Lycoming County</b>
Type of Facility	Vended Water Machines—cancellation of approval to operate vended water machines at the Giant Food Store #72 in State College Borough, Giant Food Store #111 in College Township and Giant Food Store #122 in Loyalsock Township
Permit to Operate Cancelled	October 9, 2002

**Permit No., Minor Amendment.** Public Water Supply.

Applicant	<b>Renovo Borough Council</b> 128 Fifth Street Renovo, PA 17764
Borough	Renovo Borough
County	<b>Clinton</b>
Type of Facility	PWS—approval to construct butterfly valve at booster pump station to control flows
Consulting Engineer	Kerry A. Uhler & Associates 140 Rear West High Street Bellefonte, PA 16823
Permit to Construct Issued	October 10, 2002

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 0202503**, Public Water Supply.

Applicant	<b>City of Duquesne</b> 12 South Second Street Duquesne, PA 15510
[Borough or Township]	City of Duquesne
County	<b>Allegheny</b>
Type of Facility	Doney Street Pump Station
Consulting Engineer	Glenn Engineering & Associates Inc. 14920 Route 30 East North Huntingdon, PA 15642
Permit to Construct Issued	September 17, 2002

**Permit No. 1189501-A1**, Public Water Supply.

Applicant	<b>Nanty Glo Water Authority</b> 872 Chestnut Street Nanty Glo, PA 15943
[Borough or Township]	Cambria Township
County	<b>Cambria</b>
Type of Facility	Powdered activated carbon feed system
Consulting Engineer	Stiffler, McGraw & Associates 19 North Juniata Street P. O. Box 462 Hollidaysburg, PA 16648
Permit to Construct Issued	October 4, 2002

**Permit No. 0472501-A1**, Public Water Supply.

Applicant	<b>Department of Conservation and Natural Resources</b> 400 Market Street, 8th Floor RCSOB, P. O. Box 8451 Harrisburg, PA 17105-8451
[Borough or Township]	Hanover Township
County	<b>Beaver</b>
Type of Facility	Raccoon Creek State Park Water Treatment Plant
Consulting Engineer	CET Engineering Services 1240 North Mountain Road Harrisburg, PA 17112
Permit to Construct Issued	October 4, 2002

**Permit No. 6302503**, Public Water Supply.

Applicant	<b>Tri-County Joint Municipal Authority</b> P. O. Box 758 26 Monongahela Avenue Fredericktown, PA 15333
[Borough or Township]	Centerville Borough
County	<b>Washington</b>
Type of Facility	Vestaburg Booster Pump Station
Consulting Engineer	Nichols & Slagle Engineering, Inc. 980 Beaver Grade Road Coraopolis, PA 15108
Permit to Construct Issued	October 2, 2002

**Operations Permit** issued to **Confluence Borough Municipal Authority**, P. O. Box 6, Confluence, PA 15424, PWS ID 4560033, Confluence Borough, **Somerset County** on October 4, 2002, for the operation of facilities approved under Construction Permit 5600509.

**Operations Permit** issued to **Confluence Borough Municipal Authority**, P. O. Box 6, Confluence, PA 15424, PWS ID 4560033, Confluence Borough, **Somerset County** on October 4, 2002, for the operation of facilities approved under Construction Permit 5699502.

**Permit No. 0402501, Minor Amendment.** Public Water Supply.

Applicant **Beaver Falls Municipal Authority**  
1425 Eighth Avenue  
Beaver Falls, PA 15010

[Borough or Township] Beaver Falls

County **Beaver**

Type of Facility Oak Hill water storage tank

Consulting Engineer US Engineering LLC  
4 Sunrise Court  
Highland, IL 62249

Permit to Construct Issued October 2, 2002

**Permit No. 2699503, Minor Amendment.** Public Water Supply.

Applicant **The Municipal Authority of the Township of Washington**  
1390 Fayette Avenue  
Belle Vernon, PA 15012

[Borough or Township] Washington Township

County **Fayette**

Type of Facility 1.7 MG concrete (Brownstown) water storage tank and chlorination building

Consulting Engineer Bankson Engineers, Inc.  
267 Blue Run Road  
P. O. Box 200  
Indianola, PA 15051

Permit to Operate Issued October 2, 2002

**Permit No. 5687506-T1, Minor Amendment.** Public Water Supply.

Applicant **Berlin Borough Municipal Authority**  
700 North Street  
P. O. Box 115  
Berlin, PA 15530

[Borough or Township] Brothersvalley Township

County **Somerset**

Type of Facility Well No. 9

Permit to Operate Issued September 23, 2002

*Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit No. 1001502, Public Water Supply.**

Applicant **Peter Rabbit Campground, Inc.**  
**Peter Rabbit MHP**  
551 Mahood Road  
Butler, PA 16001

Borough or Township Brady Township

County **Butler**

Type of Facility PWS—Existing and proposed treatment for Well Nos. 1—4

Consulting Engineer McGarvey Engineering  
172 Woodcrest Road  
Butler, PA 16002.

Permit to Construct Issued October 8, 2002

**WATER ALLOCATIONS****Actions taken on applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.**

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WA2-711B, Water Allocations, Richland Township Municipal Authority.** 2012 Kramer Road, Gibsonia, PA 15044-9631, **Allegheny County.** A water allocation permit was issued for the right to purchase 1.3 MGD, as a peak month, 30-day average, from the Municipal Authority of the Borough of West View located in Allegheny County.

**WA63-564A, Water Allocations, Tri-County Joint Municipal Authority,** P. O. Box 758, 26 Monongehala Avenue, Fredericktown, PA 15333, **Washington County.** A water allocation permit was issued for the right to withdraw 3 MGD, as a daily maximum, from the Monongahela River.

**WA26-658A, Water Allocations, Indian Creek Valley Water Authority,** P. O. Box 486, Indian Head, PA 15446-0486, Stewart Township, **Fayette County.** Modification order to expand the service areas to include all areas delineated on the amended service area map.

**SEWAGE FACILITIES ACT PLAN APPROVAL****Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).**

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

## Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
St. Thomas Township	965 Hade Rd. Chambersburg, PA 17201	Franklin County

Plan Description: The approved plan provides for a small flow treatment facility to replace a malfunctioning onlot sewage disposal system at the home and office of Dr. Gregg Brady on Lincoln Way West in St. Thomas Township. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Required NPDES permits or WQM permits must be obtained in the name of the applicant.

## Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
East Cocalico Township	100 Hill Road Denver, PA 17517	Lancaster

Plan Description: The approved plan provides for the adoption and implementation of an onlot sewage disposal system management ordinance that includes the entire township and the construction of a sanitary sewer collection and conveyance system to serve the proposed Morganshire development (88 EDUs) and the existing Lakeside, Smokestown and Pinewood areas as defined in the Plan. Sewage from these areas will be conveyed via sewerage of the East Cocalico Township Authority to the IMG interceptor with disposal at the Ephrata Wastewater

Treatment Facility (No. 2). The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Plan Location:**

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Rose Township	R. R. 3, Box 208 Brookville, PA 15825	Jefferson

**Plan Description:** The approved plan provides for the construction of a sanitary sewage collection and conveyance system which will serve certain areas of Rose and Knox Townships, including the Village of Belgiumtown to be treated at Brookville WWTP. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

## HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

### Proposed Remedial Response

#### American Industrial Chromium Company Swissvale Borough, Allegheny County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.102—6020.1303), is proposing a remedial response at American Industrial Chromium Company (Site), 7500 Ardmore Street, Swissvale Borough, Allegheny County.

The Site consists of a two-story cement block building on a parcel of land near the railroad tracks in a mixed commercial and residential area of Swissvale. Homes and businesses are located adjacent to the Site. The building is presently empty and deteriorating, there is the potential for trespasser entry through broken windows.

American Industrial Chromium Company operated a specialized electroplating (copper, silver, lead, chromium, cadmium and zinc) facility at this location starting around 1945. In 1987, the company ceased operations. George J. Lemak was president of American Industrial Chromium Company. The building has apparently been idle since the company ceased operations.

Department sample results of soil/waste taken at the Site show elevated levels of lead, cadmium, arsenic, chromium and antimony. These hazardous substances are found inside and outside the building and they present a direct contact threat for persons entering the building and/or near it. The Site is located in a densely populated area with a mixture of commercial and residential properties located adjacent to it. There is also the potential for a release and/or threat of a release of hazardous substances to the groundwater as a result of leaks and/or spills from the facility's operations.

The object of the response is to delineate the extent of contamination at the Site. The scope of the site investigation will include areas inside and outside the building. The following alternatives were analyzed.

**Alliterative 1. No Action**—This alternative consists of taking no action to address the release and/or threat of release of hazardous substances at the Site.

**Alternative 2. Conduct a site investigation to delineate the extent of contamination inside and outside the building**—The site investigation would involve first determining what the processes were that once operated at the Site and where they were located. A sampling plan would then be developed and implemented to evaluate the extent of any contamination on the inside and outside of the building. A groundwater investigation may be done if soil/waste samples indicate that contamination has the potential to have migrated into the groundwater.

**Proposed Alternative**—The selected proposed alternative is Alternative 2. This alternative meets the Department's requirements to address the release and/or threat of release of hazardous substances from the Site and it is more cost effective than Alternative 1. The performance standards for the proposed Site Investigation will be the requirements of the Land Recycling and Environmental Remediation Standards Act, the Solid Waste Management Act, the HSCA and The Clean Streams Law.

This notice is being provided under sections 505(b) and 506(b) of the HSCA. The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA and is available for review Monday through Friday from 8 a.m. to 4 p.m.

The administrative record will be open for comments from October 26, 2002, to January 24, 2003. Persons may submit written comments into the record, during this time only, by sending them or delivering them to Barbara Gunter, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing. The Department has scheduled the hearing on December 10, 2002, at 7 p.m. at the Swissvale Borough Building, 7560 Roslyn St., Swissvale, PA. Persons wishing to present comments must register by December 9, 2002, with Betsy Mallison, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4182.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should contact Betsy Mallison at (412) 442-4182 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

### Proposed Interim Response and Public Hearing

#### Ruschell Auto Wrecking Site, Dry Tavern, Jefferson Township, Greene County

The Department, under the authority of the HSCA, is proposing an interim response at the Ruschell Auto Wrecking Site (Site), SR 188, Dry Tavern, Jefferson Township, Greene County. The Site is a former junkyard approximately less than 1 acre in size situated between residential homes along SR 188 and a horse pasture between SR 188 and Shortcut Road.

The Site is a former junkyard where various wastes, hazardous substances and battery casing inner materials have been spilled and/or leaked onto the ground, causing soil, sediment and surface water contamination. Visibly

stained soils can be observed throughout the Site. A small wetland pond at the Site contains automobile gas tanks and frequently exhibits an oily sheen on the surface and its surface water and sediments have been contaminated. Hazardous substances defined by the HSCA, such as arsenic, chromium, lead and nickel, have been released at the Site. Laboratory results indicate concentrations of arsenic, chromium, iron, lead, nickel and dichloromethane that exceed direct contact and/or soil to groundwater standards under the Land Recycling and Environmental Remediation Standards Act. Access to the Site is unrestricted and currently poses a threat to human health and the environment in terms of direct contact and soil to groundwater contamination.

The Department considered the following three alternatives: (1) no action; (2) restricted access; and (3) removal and disposal of contaminated soil, sediment and water.

Alternative 1 does not address control or elimination of threats to human health or the environment, as contamination would not be addressed.

Alternative 2 would fence and vegetate the Site and restrict direct contact access to contaminated soil, sediment and water but does not address potential continued soil to groundwater contamination.

Alternative 3 would remove contaminated soil, sediment and water from the Site, eliminating direct contact and soil to groundwater pathways as threats to human health and the environment.

The Department proposes that Alternative 3 be implemented. The Department proposes an interim response involving removal and disposal of contaminated soil, sediment and water, along with restoration of a pond wetland and vegetation of the Site. This response will eliminate contamination source areas from the Site, eliminating direct contact risks and preventing potential further contamination of groundwater.

This notice is being provided under section 506(b) of the HSCA. The administrative record which contains information forming the basis and documenting the selection of this response action is available for public review and comment at the Department's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222 and is available for review between 9 a.m. and 4 p.m.

The administrative record will be open for comment until January 24, 2003. Persons may submit written comments into the record, during this time only, by sending them or delivering them to Annette T. Paluh, Project Manager, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing on November 26, 2002, at 7 p.m. at the Jefferson Morgan Junior Senior High School Auditorium, 1351 Jefferson Road, Jefferson, PA. Persons wishing to present comments must register before November 25, 2002, with Betsy Mallison, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4182.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceeding, should contact Betsy Mallison at (412) 442-4182 or through the Pennsylvania AT&T Relay Service at (800) 654-5954 (TDD) to discuss how the Department may accommodate their needs.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

**The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where one of the Act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Southeast Region: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Former Alfa Laval, Inc.**, Warminster Township, **Bucks County**. David Kistner, URS Corporation, 1400 Union Meeting Rd., Suite 202, Blue Bell, PA 19422, on behalf of Alfa Laval Inc., 9201 Wilmot Rd., P. O. Box 840, Kenosha, WI 53141, has submitted a Final Report concerning remediation of site groundwater contaminated with chlorinated solvents, inorganics and other organics. The report is intended to document remediation of the site to meet Background and Site-Specific Standards.

**Town & Country Shopping Center**, West Goshen Township, **Chester County**. Richard P. Almquist, Jr., OXFORD Engineers & Consultants, Inc., 2621 Van Buren Ave., Suite 500, Norristown, PA 19403, on behalf of John Pfister, Jaymate Associates, LP, One Wiltshire Rd., Wynnewood, PA 19090, has submitted a Final Report concerning remediation of site groundwater contaminated with MTBE and unleaded gasoline. The report is intended to document remediation of the site to meet background standards.

**Zeke's Number 2**, Nottingham Township, **Chester County**. Bernard Beegle, Advanced GeoServices Corp., Routes 1 and 202, Brandywine One, Suite 202, Chadds Ford, PA 19317, has submitted a Final Report concerning remediation of site soil contaminated with Number 2 fuel oil. The report was submitted with 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.



**Sunoco Inc., Icedale Terminal (DUNS #9000-0080),** West Brandywine Township, **Chester County.** Lisa Holderbach, Groundwater & Environmental Services, Inc., 410 Eagleview Blvd., Exton, PA 19341, on behalf of Sunoco, Inc., Bradford Fish, P.G., P. O. Box 1135, Post Rd. and Blueball Ave., Marcus Hook, PA 19061, has submitted a Final Report concerning remediation of site soil contaminated with Number 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**James Spring & Wire Company,** East Whiteland Township, **Chester County.** Craig Herr, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of James Spring & Wire Co., 6 Bacton Hill Rd., Frazer, PA 19355, has submitted a Final Report concerning remediation of site groundwater contaminated with heavy metals, solvents and cadmium. The report is intended to document remediation of the site to meet Site-Specific Standards.

**Dekalb Street Site,** Upper Merion Township, **Montgomery County.** Christopher Orzechowski, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Glasgow Inc., Willow Grove Ave. and Limekiln Pike, P. O. Box 1089, Glenside, PA 19038, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and PAH. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Estate of Sam DeRose/Venice Auto Parts,** City of Philadelphia, **Philadelphia County.** Steven F. Coe, Brown Environmental Services, Corp., 42 Sequoia Drive, Newtown, PA 18940, on behalf of the Estate of Sam DeRose, 6219 W. Passyunk Ave., Philadelphia, PA 19153, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with lead, BTEX, PHC and PAH. The report is intended to document remediation of the site to meet Site-specific Standards.

**Philadelphia Eagles Stadium and Parking Areas (Proposed),** City of Philadelphia, **Philadelphia County.** Keith Kowalski, P. G., URS Corp., 1400 Union Meeting Rd., Blue Bell, PA 19422, on behalf of the City of Philadelphia, Philadelphia County Authority for Industrial Development and its agent, Philadelphia Industrial Development Corp. c/o Patrick O'Neill, City of Philadelphia Law Dept., 1515 Arch St., 16th Floor, Philadelphia, PA 19102, has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with PCB, lead, heavy metals, BTEX, PHC and PAH and solvents and site groundwater contaminated with lead, heavy metals, PAH and solvents.

**Exxon Station #2-2002 (Oxford Circle),** City of Philadelphia, **Philadelphia County.** Jennifer O'Reilly, P. G., Groundwater & Environmental Services, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341, on behalf of Checkers Restaurant, Great Lakes Restaurants, Inc., 6060 Rockside Woods Blvd., Independence, OH 44131, has submitted a combined Remedial Investigation/Risk Assessment/ Cleanup Plan and Final Report concerning the remediation of site soil and groundwater contaminated with BTEX. The report is intended to document remediation of the site to meet Statewide Health and Site-Specific Standards.

**Exxon Station #2-2051 (Chew Ave.),** City of Philadelphia, **Philadelphia County.** Jennifer O'Reilly, P. G., Groundwater & Environmental Services, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341, on behalf of

Chelten Assoc., 1923 Welsh Rd., Philadelphia, PA 19115, has submitted a combined Remedial Investigation/Risk Assessment/Cleanup Plan and Final Report concerning the remediation of site soil and groundwater contaminated with BTEX. The report is intended to document remediation of the site to meet Statewide Health and Site-Specific Standards.

*Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Corporate Real Estate, Ltd.,** Washington Township, **Northampton County.** Vincent M. Carbone, P. G., Project Geologist, Lawler, Matusky & Skelly Engineers, LLP, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 has submitted a Final Report (on behalf of Corporate Real Estate, Ltd., 100 Majestic Way, Bangor, PA 18013) concerning the remediation of site soils found or suspected to have been contaminated with chlorinated solvents and other organics, no. 2 fuel oil, lead and other inorganics as the result of historic previous site operations. The report was submitted to document attainment of the Statewide Health Standard.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Berkshire Court Lots 2 and 3,** Wyomissing Borough, **Berks County.** ARM Group Inc., 1129 West Governor Road, P. O. Box 797, Hershey, PA 17033, on behalf of Thun Partnership, 17 East Meadow Avenue, Robesonia, PA 19551 and Rockwell Automation Inc., 777 East Wisconsin Avenue, Suite 1400, Milwaukee, WI 53202, has submitted a combined remedial investigation and final report concerning remediation of site soils and groundwater contaminated with chlorinated solvents and other organics. The report is intended to document remediation of the site to meet a combination of the requirements for the Statewide Health and Site Specific Standards.

**Ruba Horner Residence,** Conewago Township, **York County.** Alliance Environmental Services, Inc., 1414 North Cameron Street, Suite B, Harrisburg, PA 17103, on behalf of Ruba Horner, 4738 East Flower Circle, Mesa, AZ 85206 and Dan Wisotzkey, 3311 Honey Run Drive, York, PA 17404-9443, has submitted a combined remedial investigation and final report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to a combination of the Statewide Health and Site-Specific Standards.

**CFI Property,** Manheim Township, **Lancaster County.** Lancaster County Solid Waste Management Authority, 1299 Harrisburg Pike, P. O. Box 4425, Lancaster, PA 17604, has submitted a remedial investigation and cleanup plan concerning remediation of site soils and groundwater contaminated with BTEX, PHCs, PAHs and solvents. The applicant proposes to remediate the site to meet the Site-Specific Standard.

**Quaker Oats Company,** Hampden Township, **Cumberland County.** Science Applications International Corporation, 6310 Allentown Boulevard, Harrisburg, PA 17112, on behalf of The Quaker Oats Company, 485 Saint Johns Church Road, Shiremanstown, PA 17011, has submitted a combined remedial investigation and final report concerning remediation of site soils and groundwater contaminated with lead, PHCs and PAHs. The applicant proposes to remediate the site to meet a combination of the Statewide Health and Site-Specific Standard.

**Deanna Murray Residence,** Silver Spring Township, **Cumberland County.** GemChem, Inc., 53 North Cedar

Street, P. O. Box 384, Lititz, PA 17543-0384, behalf of Deanna Murray, 33 Millers Gap Road, Enola, PA 17025, has submitted a final report within 90 days of a release concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Act. Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**International Plaza III**, Tinicum Township, Delaware County. Randolph L. Kazazian, III, Koll Bren Schreiber Realty Advisors, Inc., 125 Summer St., Boston, MA 02110 and Thomas V. Fusillo, Environ Corp., 214 Carnegie Center, Princeton, NJ 08540, have submitted a

Final Report concerning the remediation of site soil and groundwater contaminated with BTEX and solvents. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 29, 2002.

**Pennel Building—Dutton's Mill Business Park**, Aston Township, Delaware County. Jeffrey E. Goudswaard, Penn E & R Inc., 2755 Bergey Rd., Hatfield, PA 19440, on behalf of Aston Investment Assoc./PAREC, 731 Skippack Pk., P. O. Box 1205, Blue Bell, PA, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with BTEX and PAH. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 24, 2002.

**Conrail Parcel**, Marcus Hook Borough, Delaware County. Bruce R. Cushing, P. G., ST Environmental Professionals, Inc., P. O. Box 1055, Oaks, PA 19456, on behalf of Conrail, 510 Thornall St., Suite 390, Edison, NJ 08837, has submitted a Final Report concerning the remediation of site soil contaminated with lead and heavy metals. The Final report demonstrated attainment of Site-Specific Standards and was approved by the Department on September 27, 2002.

**Former Charl-Stan Property**, Upper Chichester Township, Delaware County. John Mihalich, RMT, Inc., 527 Plymouth Rd., Plymouth Meeting, PA 19462-1641, on behalf of Stephen J. Lewicki, Peter S. Lewicki, Gregory D. Lewicki and Virginia Lewicki, Successor Trustees under the Residuary Trust under Revocable Trust of Stephen Lewicki dated March 26, 1999, P. O. Box 2129, Aston, PA 19014-0129, has submitted a Final Report concerning the remediation of site soil contaminated with lead and heavy metals. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 30, 2002.

**J & T Building Co., Inc.**, Media Borough, Delaware County. Samuel J. Kucia, Environmental Consulting, Inc., 500 E. Washington St., Norristown, PA 19401, on behalf of J & T Building Co., Inc. c/o Thomas A. Goldsmith, Jr., 200 E. State St., Media, PA 19063, has submitted a Final Report concerning the remediation of site soil contaminated with lead, heavy metals, solvents and BTEX. The Final report demonstrated attainment of Statewide Health and Background Standards and was approved by the Department on October 9, 2002.

**Fogel Property**, Upper Providence Township, Montgomery County. Terence A. O'Reilly, P. G., TriState Environmental Management Services, Inc., 362 Dunks Ferry Rd., Bensalem, PA 19020, on behalf of John Ciccone, Agent for May Fogel, John Ciccone Architects, 2006 Samson St., Philadelphia, PA 19103, has submitted a Final Report concerning the remediation of site soil contaminated with inorganics. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 24, 2002.

**Paul Grater Farm**, Skippack Township, Montgomery County. Richard P. Almquist, Jr., OXFORD Engineers & Consultants, Inc., 2121 Van Buren Ave., Norristown, PA 19403, on behalf of Jerry Gorski, Lucon Business Park, LLC, 528 Main St., Harleysville, PA 19438, has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvents, inorganics, lead, other organics, PAH and pesticides. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 26, 2002.

**Former Gasoline Service Station**, Montgomery Township, **Montgomery County**. Jeffrey E. Goudswaard, Penn Environmental & Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440, on behalf of Cynwyd Investments, 261 Old York Rd., Warminster, PA 19046, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with lead, BTEX, PAH, EDB and EDC. The Final report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department on October 7, 2002.

**CSX Intermodal—Snyder Ave. Yard Facility**, City of Philadelphia, **Philadelphia County**. Gary A. Rozmus, P. E., Gannett Fleming, Inc., 480 Forest Ave., P. O. Box 707, Locust Valley, NY 11560-0707, on behalf of CSX Transportation, Attn: Marshall L. Williams, 301 W. Bay St., Suite 800, Jacksonville, FL 32202, has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with PCB, lead, heavy metals, BTEX, PAH and solvents; and site groundwater contaminated with lead, heavy metals, PAH and solvents. The report was approved by the Department on September 25, 2002.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Former Transtar Facility**, Fairview Township, **York County**. Harding ESE, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462, on behalf of Total Recycling Services, 430 Victoria Terrace, Ridgefield, NJ 07657 and EC Barnes Company, P. O. Box 277, Saint Thomas, PA 17252, submitted a Final Report concerning remediation of site groundwater contaminated with BTEX and PAHs. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 4, 2002.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Donald Snyder Property**, Fairfield Township, **Lycoming County**. Hydrocon Services, Inc. on behalf of Donald Snyder, R. D. 1, Box 1, Montoursville, PA, has submitted a Final Report concerning groundwater and soil contaminated with MTBE and unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 1, 2002.

**Costy's Used Truck & Auto Parts, Inc.**, Richmond Township, **Tioga County**. Mountain Research, Inc., on behalf of David and Daniel Kurejewski, 2395 S. Main Street, Mansfield, PA 16933, has submitted a Remedial Investigation Report concerning groundwater contaminated with BTEX, naphthalene and MTBE. The applicant is proposing to remediate the site to meet a combination of the Statewide Health Standard and/or Site-Specific Standard. The Department approved the Remedial Investigation Report on October 2, 2002.

#### **HAZARDOUS WASTE TRANSPORTER LICENSE**

**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

*Hazardous Waste Transporter License Renewed*

**Heritage-Crystal Clean, LLC**, 3970 W. 10th Street, Suite A, Indianapolis, IN 46222. License No. **PA-AH 0672**. Effective October 7, 2002.

**Wayne J. Ganim, Technic, Inc.**, 1 Spectacle Street, Cranston, RI 02910. License No. **PA-AH S134**. Effective October 10, 2002.

**Chemical Solvents, Inc.**, 3751 Jennings Road, Cleveland, OH 44109. License No. **PA-AH 0049**. Effective October 4, 2002.

#### **INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE**

**Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

*Infectious and Chemotherapeutic Waste Transporter License Renewed*

**The Pennsylvania State University**, 6 Eisenhower Parking Deck, University Park, PA 16802. License No. **PA-HC 0153**. Effective October 9, 2002.

#### **HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES**

**Draft permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**PAD005033055. General Electric Transportation Systems, Inc.**, Bldg. 9-2, 2901 E. Lake Road, Erie, PA 16531, Lawrence Park Township, **Erie County**. Permit renewal for a Captive Hazardous Waste Storage Facility. A draft permit was issued by the Northwest Regional Office on October 16, 2002.

Persons interested in reviewing the draft permit may contact Todd Carlson, Program Manager, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335 (814) 332-6848. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

#### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit No. 101247. Keystone Sanitary Landfill, Inc.**, P. O. Box 249, Dunmore, PA 18512-0249. A Major Permit Modification approving the Radiation Protection Action Plan at this municipal waste landfill located in Dunmore and Throop Boroughs, **Lackawanna County**. The permit was issued by the Regional Office on October 2, 2002.

**Permit No. 101615. Commonwealth Environmental Systems, L. P.**, P. O. Box 249, Dunmore, PA 18512-

0249. A Major Permit Modification approving the liner system design changes at this municipal waste landfill located in Foster Township, **Schuylkill County**. The permit was issued by the Regional Office on October 2, 2002.

**Permit revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 602946. Miller Environmental, Inc.,** P. O. Box 534, Manheim, PA 17545, Rapho Township, **Lancaster County**. This permit has been revoked at the request of the permittee for a site in Monroe Township. The permit was revoked by the Southcentral Regional Office on October 15, 2002.

**Permits under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 100172. Arden Landfill, Inc.,** West Pointe Corporate Center One, Suite 200, 1550 Coraopolis Heights Road, Moon Township, PA 15108. Application for the expansion of the Arden Landfill (Northern Area) located in Chartiers Township, **Washington County** was withdrawn by the applicant's request on September 27, 2002.

**Permit No. 301193,** residual waste landfill and **Permit No. PAD000736672,** hazardous waste landfill, **U. S. Steel Corporation,** South Taylor Environmental Park, Delwar Road, Murrysburg, PA 15668, West Mifflin Borough, **Allegheny County**. Operation of a residual waste landfill and postclosure care of a hazardous waste landfill. Change in corporate name and bond amounts. Permit modified in the Regional Office on October 10, 2002.

**Permit ID No. 100419. CBF, Inc.,** R. D. 1, Box 266, McClellandtown, PA 15458. Operation of the J & J Landfill in German Township, **Fayette County**. Major permit modification for a Radiation Monitoring and Action Plan was issued in the Regional Office on October 9, 2002.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**GP-65-00955: The Peoples Natural Gas Co.** (625 Liberty Avenue, Dominion Tower, 20th Floor, Pittsburgh, PA 15222) permit (GP-5) on October 9, 2002, for installation and operation of one Caterpillar, Model No.

G3508TALE, Natural Gas-Fired Compressor Engine rated at 633 bhp at the Merwin Compressor Station in Washington Township, **Westmoreland County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**37-306: Atlantic States Materials of PA, Inc.** (Zimmerman Hill Road, Warren, PA 16365) on September 30, 2002, for the operation of a fourth compressor engine in Pleasant Township, **Warren County**.

**42-203: M and M Royalty, LTD.—Hamilton Township Plant** (FR 455, McKean, PA 16426) on September 30, 2002, for construction of a natural gas production facility in Hamilton Township, **McKean County**.

**25-996: Erie Advanced Manufacturing, Inc.** (7140 Klier Drive East, Fairview, PA 16416) on October 9, 2002, for two burn off ovens in Fairview Township, **Erie County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Edward Braun, Chief, (215) 685-9476.*

**02166: SBC Telecom** (401 North Broad Street, Philadelphia, PA 19130) for installation of a 1,020 kW diesel emergency generator in Philadelphia, **Philadelphia County**.

**02168: University of Sciences in Philadelphia** (600 South 43rd Street, Philadelphia, PA 19104) for installation of several combustion units in Philadelphia, **Philadelphia County**.

**02169: Sunoco, Inc.—R and M** (3144 Passyunk Avenue, Philadelphia, PA 19145) for maintenance on 1232 Fluid Catalytic Cracking Unit in Philadelphia, **Philadelphia County**.

**02184: Sunoco, Inc.—R and M** (3144 Passyunk Avenue, Philadelphia, PA 19145) for installation of a hydrodesulfurization plant in Philadelphia, **Philadelphia County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Mark Wejksznar, Acting New Source Review Chief, (570) 826-2531.*

**54-318-015: Schuylkill Products, Inc.** (121 River Street, Cressona, PA 17929) on September 20, 2002, for construction of a concrete form coating process in Cressona Borough, **Schuylkill County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05100C: Calpine Construction Financial Co., LP** (5115 Pottsville Pike, Reading, PA 19605) on October 4, 2002, for modification of the cooling towers controlled by mist eliminators at the Ontelaunee Power Plant in Ontelaunee Township, **Berks County**. The source is subject to 40 CFR Part 52, Prevention of Significant Deterioration.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**PA-26-00119D: Anchor Glass Container Co.** (4343 Anchor Plaza Parkway, Tampa, FL 33634) on October 10, 2002, for increased production in furnace No. 2 and installation of a decorating line at Plant 5 in South Connellsville Borough, **Fayette County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.*

**25-987B: Hanes Erie, Inc.** (7601 Klier Drive, Fairview, PA 16415) on September 24, 2002, for construction of an additional spray coating line in Fairview Township, **Erie County**.

**37-307B: Slippery Rock Salvage** (214 Gardner Avenue, New Castle, PA 16107) on October 2, 2002, for construction of water cutting tables in New Castle, **Lawrence County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Barsley, Chief, (215) 685-9428.*

**02050: Naval Surface Warfare Center** (5001 South Broad Street, Code 027, Philadelphia, PA 19112) was authorized to reactivate four marine boilers in Philadelphia, **Philadelphia County**.

**02138: Naval Surface Warfare Center** (5001 South Broad Street, Code 027, Philadelphia, PA 19112) was authorized to operate a 434 hp diesel engine in Philadelphia, **Philadelphia County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001–4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**46-0072: Willow Grove Air Reserve Station** (2164 McGuire Street, Willow Grove, PA 19090) on October 7, 2002, for operation of a spray paint booth in Horsham Township, **Montgomery County**.

**09-0024A: Waste Management of PA, Inc.** (200 Bordentown Road, Tullytown, PA 19007) on October 10, 2002, for operation of a permitted landfill in Tullytown Borough, **Bucks County**.

**09-0128: East Coast Sign Advertising** (5058 Route 13 North, Bristol, PA 19007) on October 11, 2002, for operation of a paint spray booth in Bristol Township, **Bucks County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.*

**49-305-008B: Shamokin Filler Co., Inc.** (P. O. Box 568, Shamokin, PA 17872) on October 4, 2002, for operation of a fluidized bed coal/carbon pellet dryer and associated air cleaning device (a fabric collector) until December 31, 2003, in Coal Township, **Northumberland County**. The plan approval was extended.

**18-313-019D: Croda, Inc.** (8 Croda Way, Mill Hall, PA 17751) on October 2, 2002, for operation of various batch reaction vessels used to produce quaternary ammonium

compounds and associated air cleaning devices (a thermal oxidizer and a packed bed scrubber) on a temporary basis until January 30, 2003, in Bald Eagle Township, **Clinton County**. The plan approval was extended.

**08-316-013A: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Towanda, PA 18848) on October 4, 2002, for operation of a hardboard press (Line 2/Trimboard) and associated air cleaning device (a scrubber) on a temporary basis until February 1, 2003, as well as to extend the deadline for the submission of a stack test report to October 29, 2002, in Wysox Township, **Bradford County**. The plan approval was extended.

**08-0004A: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Towanda, PA 18848) on October 4, 2002, for operation of a woodwaste-fired boiler and associated air cleaning device (an electrostatic precipitator) on a temporary basis until February 1, 2003, in Wysox Township, **Bradford County**. The plan approval was extended.

**08-318-024A: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Towanda, PA 18848) on October 4, 2002, for operation of a hardboard products surface coating operation (Coating II) on a temporary basis until February 1, 2003, in Wysox Township, **Bradford County**. The plan approval was extended.

**08-302-039: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Towanda, PA 18848) on October 4, 2002, for operation of two woodwaste-fired boilers and associated air cleaning devices (an electrostatic precipitator and a selective noncatalytic reduction system) on a temporary basis until February 1, 2003, in Wysox Township, **Bradford County**. The plan approval was extended.

**41-303-009: HRI, Inc.** (1750 West College Avenue, State College, PA 16804) on October 3, 2002, for operation of a batch asphalt plant and associated air cleaning device (a fabric collector) on a temporary basis until January 31, 2003, in the City of Williamsport, **Lycoming County**. The plan approval was extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**65-657A: Tresco Paving Corp.** (P. O. Box 14004, Pittsburgh, PA 15239) on October 10, 2002, for repairs to the drum mix asphalt plant in Salem Township, **Westmoreland County**. This plan approval was extended.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.*

**25-069G: Engelhard Corp.** (1729 East Avenue, Erie, PA 16503) on October 7, 2002, for a cartridge collector in Erie, **Erie County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Barsley, Chief, (215) 685-9428.*

RACT plan approval issued to **Sunoco, Inc. R and M** (3144 Passyunk Avenue, Philadelphia, PA 19145) was amended to correct the heat input value of 868 FCCU heater from 40 mmBtu/hr to 47.92 mmBtu/hr.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P.S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**46-00019: Lockheed Martin Corp.** (Building, 10, Room 2164, P. O. Box 8048, Philadelphia, PA, 19101-8048) on October 10, 2002, amended to address the appeal of their Title V Operating Permit and the consolidation of two divisions into one operating permit in Upper Merion Township, **Montgomery County**. The facility's major emission points include boilers, generators and miscellaneous VOC sources. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

**15-00026: American Inks and Coatings Corp.** (330 Pawlings Road, Valley Forge, PA 19482) located in Schuylkill Township, **Chester County** for an administrative amendment to Title V Operating Permit 15-00026. The permit is being amended to correct contact information, address typographical errors and change the temperature of the dissolver used in the Specialty Clear Coat Process. The facility's major emission points include boilers, storage tanks, roll mills and mixing tanks. The changes made to this Title V Permit do not result in an increase of emissions from the facility. The amended Title V Operating Permit will contain additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**37-00248: United States Can Co.—Shenango Township Plant** (1902 Old Butler Road, New Castle, PA 16101) for operation of Can Sheet Coating Facility, in Shenango Township, **Lawrence County**. This is a renewal of the operating permit.

**25-00035: Molded Fiberglass Company, Union City Plant** (55 Fourth Avenue, Union City, PA 16438) for operation of a Reinforced Plastic Manufacturing Facility, in Union City Borough, **Erie County**. This is a renewal of the operating permit.

#### **Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**10-00335: Penn United Technology, Inc.** (196 Alwine Road, Saxonburg, PA 16056) on October 8, 2002, for operation of a Natural Minor Operating Permit to operate a machine tool accessories manufacturing facility in Jefferson Township, **Butler County**.

#### **De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**43-00196: General Electric Transportation System** (1503 West Main Street Extension, Grove City, PA 16127) for operation of their Grove City facility in Pine Township, **Mercer County**. This locomotive manufacturing plant is a Title V facility. The de minimis emission increase is the addition of a natural gas-fired thermal cleaner that will result in the increase in emissions of NO<sub>x</sub> (0.50 tpy), carbon monoxide (0.39 tpy), particulate matter (0.04 tpy), VOCs (0.03 tpy) and sulfur oxide (less

than 0.01 tpy). This emission increase is authorized under 25 Pa. Code § 127.449 and in Section B, Condition 017 of the facility's Title V Operating Permit.

## **ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

#### *Coal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**54733020C23 and NPDES Permit PA0012360. Lehigh Coal & Navigation Company** (101 North Centre Street, Pottsville, PA 17901), correction to an existing anthracite surface mine operation in Tamaqua, Coaldale, Lansford, Summit Hill and Nesquehoning Boroughs, **Schuylkill and Carbon Counties** affecting 7,596.4 acres, receiving streams: Nesquehoning and Panther Creeks. Application received May 15, 2002. Correction issued October 10, 2002.

**54733020R2 and R3 and NPDES Permit PA0012360. Lehigh Coal & Navigation Company** (101 North Centre Street, Pottsville, PA 17901), renewals of an existing anthracite surface mine operation and NPDES Permit in Tamaqua, Coaldale, Lansford, Summit Hill and Nesquehoning Boroughs, **Schuylkill and Carbon Counties** affecting 7,596.4 acres, receiving streams: Nesquehoning and Panther Creeks. Applications received March 23, 1995, and May 2, 2000, issued October 10, 2002.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**17970101 and NPDES Permit No. PA0220167. Sky Haven Coal, Inc., R. D. 1, Box 180, Penfield, PA 15849.** Renewal of an existing bituminous surface mine-auger permit in Lawrence and Goshen Townships, **Clearfield County** affecting 103.9 acres. Receiving streams: unnamed tributary to Pine Run, unnamed tributary to Clearfield Creek, Clearfield Creek, unnamed tributary to Flegals Run to Lick Run to West Branch Susquehanna River. Application received August 8, 2002. Permit issued October 2, 2002.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**26000104 and NPDES Permit No. 0202886. Patterson Coal Company** (41 Elizabeth Drive, Smithfield, PA 15478). Revision permit to add 37.5 acres

to an existing bituminous surface mine located in German, Georges and S. Union Townships, **Fayette County**, affecting 175.3 acres. Receiving streams: unnamed tributaries to N. Branch Browns Run and N. Branch Browns Run. Revision application received July 18, 2002. Revision permit issued October 11, 2002.

**03010106 and NPDES Permit No. PA0250031. Seven Sisters Mining Co., Inc.** (200 U. S. Route 22, P. O. Box 300, Delmont, PA 14626-0300). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in South Bend Township, **Armstrong County**, affecting 34.3 acres. Receiving streams: Crooked Creek and unnamed tributary to Allegheny River. Application received March 18, 2002. Permit issued October 15, 2002.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**05773002 and NPDES Permit No. PA0605964. Dash Coal Company, Inc.,** P. O. Box 517, Stoystown, PA 15563, permit revision for sandstone removal on a bituminous surface mine and for discharge of treated mine drainage in Broadtop Township, **Bedford County**, affecting 258.5 acres. Receiving streams: unnamed tributary to Shreves Run; unnamed tributary to Six Mile Run; Six Mile Run; and Shreves Run all classified for WWF. The first downstream potable water supply intake from the point of discharge is Saxton Municipal Waterworks on the Raystown Branch Juniata River. Application received July 22, 2002. Permit issued October 4, 2002.

**11970104 and NPDES Permit No. PA0234486. M. B. Energy, Inc.,** 175 McKnight Road, Blairsville, PA 15717-7960, permit renewal for reclamation only and for continued restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Blacklick Township, **Cambria County**, affecting 449.6 acres. Receiving streams: unnamed tributaries to and South Branch Blacklick Creek classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 30, 2002. Permit issued October 9, 2002.

**56920105 and NPDES Permit No. PA0599476. Sanner Energies, Inc.,** 1179 Rockdale Road, Rockwood, PA 15557-6409, permit renewal for continued operation of a bituminous surface and auger mine and for discharge of treated mine drainage in Southampton Township, **Somerset County**, affecting 100.2 acres. Receiving streams: unnamed tributaries to North Branch of Jennings Run classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 20, 2002. Permit issued October 10, 2002.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**37870102 and NPDES Permit No. PA0107948. The Ambrosia Coal & Construction Co.** (R. R. 1, Box 422, Edinburg, PA 16116). Renewal of an existing bituminous strip and clay removal operation in North Beaver Township, **Lawrence County** affecting 46.0 acres. This renewal is issued for reclamation only. Receiving streams: unnamed tributary to Beaver River and unnamed tributary to Edwards Run. Application received June 5, 2002. Permit issued October 8, 2002.

**24980101. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Revision to an existing bituminous strip, auger and clay removal operation to place coal ash in Fox Township, **Elk County** affecting 457.0 acres. Receiving streams: unnamed tributary to McCauley Run,

unnamed tributary to Little Toby Creek. Application received May 10, 2002. Permit issued October 11, 2002.

**24970102 and NPDES Permit No. PA0227501. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous strip and clay removal operation in Fox Township, **Elk County** affecting 230.5 acres. Receiving streams: Two unnamed tributaries to Brandy Camp Creek and one unnamed tributary to McCauley Run. Application received July 29, 2002. Permit issued October 1, 2002.

**24970103 and NPDES Permit No. PA0227510. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous strip and auger operation in Fox and Horton Townships, **Elk County** affecting 312.0 acres. Receiving streams: unnamed tributary to Benninger Creek and Benninger Creek, unnamed tributary to Boderocco Run and Boderocco Run. Application received August 12, 2002. Permit issued October 1, 2002.

**33950107 and NPDES Permit No. PA0227102. Cookport Coal Co., Inc.** (425 Market Street, Kittanning, PA 16201). Transfer of an existing bituminous strip, shale and clay removal operation from R & L Coal Corp. in Warsaw Township, **Jefferson County** affecting 39.5 acres. Receiving streams: two unnamed tributaries of Mill Creek. Application received May 31, 2002. Permit issued October 8, 2002.

#### *Noncoal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**7974SM3C6 and NPDES Permit PA0595853. New Hope Crushed Stone & Lime Co.** (Phillips Mill Road, New Hope, PA 18938), renewal of NPDES Permit in Solebury Township, **Bucks County**, receiving stream: Primrose Creek. Application received August 19, 2002. Renewal issued October 9, 2002.

**4873SM6C3 and NPDES Permit PA0009695. Global Stone PenRoc, Inc.** (P. O. Box 1967, York, PA 17405-1967), renewal of NPDES Permit in West Manchester Township, **York County**, receiving stream: Codorus Creek. Application received August 19, 2002. Renewal issued October 9, 2002.

**7775SM6A1C4 and NPDES Permit PA0119121. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610), renewal of NPDES Permit in Perry Township, **Berks County**, receiving stream: unnamed tributary to Schuylkill River. Application received August 20, 2002. Renewal issued October 9, 2002.

**7775SM9A2C5 and NPDES Permit PA0595659. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610), renewal of NPDES Permit in Perry Township, **Berks County**, receiving stream: unnamed tributary to Schuylkill River. Application received August 20, 2002. Renewal issued October 9, 2002.

**66020801. George Appleman** (P. O. Box 52, Nicholson, PA 18446), commencement, operation and restoration of a quarry operation in Nicholson Township and Borough, **Wyoming County**, affecting 3.0 acres, receiving streams: Horton Creek and Tunkhannock Creek. Application received August 2, 2002. Permit issued October 11, 2002.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**18020803. Tom Evers Plumbing & Heating,** 113 N. Water Street, Mill Hall, PA 17751. Commencement, operation and restoration of a Small Industrial Minerals



(Rock) permit in Wayne Township, **Clinton County** affecting 5 acres. Receiving streams: unnamed tributary, tributary to Susquehanna River. Application received August 9, 2002. Permit issued October 7, 2002.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**25020802. Robert G. Biebel** (7679 Wattsburg/Waterford Road, Union City, PA 16438). Commencement, operation and restoration of a small noncoal industrial mineral operation in Waterford Township, **Erie County** affecting 5.3 acres. Receiving streams: French Creek. Application received April 10, 2002. Permit issued October 3, 2002.

**37020303. East Fairfield Coal Co.** (10900 South Ave., P. O. Box 217, North Lima, OH 44452). Commencement, operation and restoration of a noncoal underground mine in North Beaver Township, **Lawrence County** affecting 187.1 acres. Receiving streams: None. Application received March 12, 2002. Permit issued October 1, 2002.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

#### *Blasting Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**28024028. Geological Technologies, Inc.** (75 Baltimore Pike, Martinsburg, WV 25401), construction blasting in Washington Township, **Franklin County** with an expiration date of April 30, 2003. Permit issued October 7, 2002.

**09024030. AMROC** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting in Solebury Township, **Bucks County** with an expiration date of April 11, 2003. Permit issued October 7, 2002.

**360240110. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in West Earl Township, **Lancaster County** with an expiration date of January 10, 2003. Permit issued October 7, 2002.

**38024029. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in Jackson Township, **Lebanon County** with an expiration date of November 10, 2002. Permit issued October 7, 2002.

**39024020. Clair Stahley** (P. O. Box 526, Orefield, PA 18069), construction blasting in Upper Saucon Township, **Lehigh County** with an expiration date of December 11, 2002. Permit issued October 7, 2002.

**52024024. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting in Greene Township, **Pike County** with an expiration date of August 29, 2003. Permit issued October 7, 2002.

**35024025. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting in Throop Borough, **Lackawanna County** with an expiration date of September 2, 2003. Permit issued October 7, 2002.

**64024008. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting in Lake Township, **Wayne County** with an expiration date of August 29, 2003. Permit issued October 7, 2002.

**67024034. ABEL Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting in Manchester Township, **York County** with an expiration date of December 30, 2002. Permit issued October 7, 2002.

**49024002. Bernard J. Hasara** (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting in Ralpho and Shamokin Townships, **Northumberland County** with an expiration date of March 31, 2003. Permit issued October 7, 2002.

**06024043. Pavex, Inc.** (4400 Gettysburg Road, Camp Hill, PA 17011), construction blasting in West Reading Borough, **Berks County** with an expiration date of February 15, 2003. Permit issued October 9, 2002.

**360240111. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in Caernarvon Township, **Lancaster County** with an expiration date of January 16, 2003. Permit issued October 9, 2002.

**28024026. Geological Technologies, Inc.** (715 Baltimore Street, Martinsburg, WV 25401), construction blasting in Guilford Township, **Franklin County** with an expiration date of November 16, 2002. Permit issued October 9, 2002.

**48024026. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting in Williams Township, **Northampton County** with an expiration date of October 16, 2003. Permit issued October 9, 2002.

**40024020. Mr. and Mrs. Jewett** (2224 Comegus Avenue, Scranton, PA 18509) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting in Ross Township, **Luzerne County** with an expiration date of December 31, 2002. Permit issued October 9, 2002.

**67024040. Thomas J. Angelozzi, Inc.** (7845 Kabik Court, Woodbine, MD 21797), construction blasting in Windsor Township, **York County** with an expiration date of December 31, 2002. Permit issued October 10, 2002.

**66024005. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting in Nicholson Township, **Wyoming County** and Benton Township, **Lackawanna County** with an expiration date of September 30, 2004. Permit issued October 11, 2002.

**46024056. Brubacher Excavating, Inc.** (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507), construction blasting in Norristown Borough and Plymouth Township, **Montgomery County** with an expiration date of October 18, 2003. Permit issued October 11, 2002.

**45024070. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting in Smithfield Township, **Monroe County** with an expiration date of September 4, 2003. Permit issued October 11, 2002.

**40024021. Explosives Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting in Kingston Township, **Luzerne County** with an expiration date of September 2, 2003. Permit issued October 11, 2002.

**28024027. R & M Excavating** (403 Hilltop Road, Newburg, PA 17290), construction blasting in Guilford Township, **Franklin County** with an expiration date of January 16, 2003. Permit issued October 11, 2002.



*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**14024022. Glenn O. Hawbaker**, P. O. Box 135, State College, PA 16804-7558, for construction blasting, located in Gregg Township, **Centre County** with an expected duration of 180 days. Permit issued October 7, 2002.

**14024023. H. Paul Stumpf Construction, Inc.**, for construction blasting, located in College Township, **Centre County** with an expected duration of 83 days. Permit issued October 8, 2002.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**32024002. C H & D Enterprises**. New entrance to Seward, PA Power Plant, East Wheatfield Township, **Indiana County**. Expected length of project October 8, 2002, through December 31, 2002. Permit issued October 9, 2002.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audio tape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U. S.C.A. § 1341(a)).

Except as otherwise noted, the Department certifies that the construction and operation herein described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U. S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State Water Quality Standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel

Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audio tape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the Federal Water Pollution Control Act (33 U. S.C.A. § 1341(a)).** (Note: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

*Permits Issued and Actions on 401 Certifications*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E09-840. Doylestown Borough**, 57 West Court Street, Doylestown, PA 18901-4260, Doylestown Borough, **Bucks County**, ACOE Philadelphia District.

To perform the following activities in and along Cooks Run (WWF-MF) associated with the proposed Veterans Lane Reconstruction Project:

1. To regrade a 565-foot reach of the 100-year floodplain immediately upstream of an existing culvert crossing for the purposes of reducing flooding. This work also includes construction and maintenance of various stormwater outfall structures.

2. To regrade a 200-foot reach of the 100-year floodplain associated with the construction of a right turn lane onto Broad Street.

3. To construct and maintain two stormwater outfall channels and associated structures along the north bank and the south bank immediately upstream of the proposed pedestrian bridge previously authorized by GP070901338.

The site is located approximately 1,500 feet northwest of the intersection of Main Street and Veterans Lane (Doylestown, PA USGS Quadrangle N: 1.4 inches; W: 12.8 inches).

**E09-842. The Bucks County Chapter Trout Unlimited**, 507 Union Street, Perkasio, PA 18974, Durham Township, **Bucks County**, ACOE Philadelphia District.

To restore and stabilize 770 linear feet of stream banks along Cooks Creek (EV-CWF) using bioengineering and conventional structural methods. The work will involve grading, planting and seeding of the stream banks; the installation of flow deflectors, boulders and other habitat enhancement devices; the placement of tree revetment, bush layering and willow post and other related activities. The project site is located approximately 1,364 feet south of the intersection of Dogwood Lane and Durham Road (Riegelsville, PA Quadrangle N: 14.62 inches; W: 13.85 inches).

**E23-424. Chadds Ford Township**, P. O. Box 181, Chadds Ford, PA 19317, Chadds Ford Township, **Delaware County**, ACOE Philadelphia District.

To replace and maintain 25 linear feet of 36-inch diameter CMP culvert in and along an unnamed tributary to Harvey Run (WWF-MF) beneath Heyburn Road with a 48-inch by 20-inch CMP arch and two 42-inch by 29-inch CMP arches side by side. This site is located approximately 1,800 feet southeast from the intersection of Route 1 and Heyburn Road (Wilmington North, DE-PA Quadrangle N: 21.9; W: 9.17 inches).

**E46-916. Alice A. Dalasio**, 271 Riverview Road, King of Prussia, PA 19406, West Norriton Township, **Montgomery County**, ACOE Philadelphia District.

To replace and maintain approximately 40 feet of riverfront retaining wall, approximately 110 feet of ramp sidewalls and a 24-foot by 6-foot floating dock on the Schuylkill River (WWF-MF). The proposed structure will replace a similar structure that was damaged as a result of Hurricane Floyd. The damaged walls were subsequently removed. The project site is located 1,000 feet east of the intersection of Hillside Drive and Mystic Lane (Valley Forge, PA Quadrangle N: 20.5 inches; W: 4.4 inches).

**EA09-010SE. Frank Kelly Builders**, 203 Buck Road, Holland, PA 18966, Plumstead Township, **Bucks County**, ACOE Philadelphia District.

The Department has reviewed and approved the Environmental Assessment, including the 401 Water Quality Certification, for impacts associated with the construction of a dam across an unnamed tributary of the North Branch of the Neshaminy Creek (WWF) and adjacent wetlands (PEM). The proposed dam will provide stormwater management for the Brookside East residential subdivision. The project also includes two minor road crossings and two utility line crossings of the watercourse, which will impact a total of 155 linear feet of watercourse. The utility line crossings will be located under the proposed culverts. The project is located north of the intersection of Swamp Road and Curly Hill Road.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E35-358. City of Scranton**, 340 North Washington Avenue, Scranton, PA 18503. City of Scranton, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To place fill in a de minimis area of wetlands equal to 0.04 acre for the purpose of constructing an onstream, nonjurisdictional dam and related stormwater improvements associated with the East Mountain Road Betterment Project. The project will impact approximately 630 feet of channel tributary to Roaring Brook. The project is located adjacent to Linwood Drive approximately 600 feet north of its intersection with East Mountain Road (Scranton, PA Quadrangle N: 3.3 inches; W: 2.5 inches).

**E35-346. Jefferson Township Sewer Authority**, R. R. 3, Box 394A, Lake Ariel, PA 18436. To construct and maintain the following Water Obstructions and Encroachments associated with the Jefferson Township Sanitary Sewer Project in Jefferson Township and the Boroughs of Olyphant and Jessup, **Lackawanna County**.

1. (WC49-1) A road crossing through a de minimis area of wetlands less than or equal to 0.05 acre within the West Branch Wallenpaupack Creek Watershed having approximate dimensions of 175 feet by 10 feet for the purpose of providing access to Pumping Station #1. The crossing is located approximately 1,700 feet east of SR 0348 and SR 2003 (Cortez Road) (Lake Ariel, PA Quadrangle N: 6.9 inches; W: 15.4 inches) in Jefferson Township.

2. (WC49-2) 175 feet of 12-inch diameter PVC gravity sanitary sewer main and 10-inch D. I. sanitary force main running parallel and in the same trench across wetlands within the West Branch Wallenpaupack Creek Watershed. The crossing is located approximately 1,700 feet east of SR 0348 and SR 2003 (Cortez Road) (Lake Ariel, PA Quadrangle N: 6.9 inches; W: 15.4 inches) in Jefferson Township.

3. (WC4A2) 540 feet of 8-inch diameter gravity sanitary sewer main consisting of 70 feet of concrete encased PVC pipe and 480 feet of D. I. pipe across wetlands within the South Branch Wallenpaupack Creek Watershed. The crossing is located approximately 1,400 feet northeast of SR 0348 and SR 2003 (Cortez Road) (Lake Ariel, PA Quadrangle N: 7.3 inches; W: 15.6 inches) in Jefferson Township.

4. (WC1S) 90 feet of 8-inch diameter D. I. gravity sanitary sewer main across wetlands within the South Branch Wallenpaupack Creek Watershed. The crossing is located approximately 360 feet southeast of the cul-de-sac on Second Street in Jefferson Heights Development (Olyphant, PA Quadrangle N: 7.8 inches; W: 0.6 inch) in Jefferson Township.

5. (WC2S) 20 feet of 8-inch diameter PVC gravity sanitary sewer main and 12-inch diameter D. I. sanitary force main running parallel and in the same trench across wetlands within the South Branch Wallenpaupack Creek Watershed. The crossing is located along the abandoned gravity railroad approximately 900 feet west of the intersection with Willow Drive in Floral Estates Development (Olyphant, PA Quadrangle N: 7.8 inches; W: 0.6 inch) in Jefferson Township.

6. (FE2A) 75 linear feet of 8-inch diameter PVC gravity sanitary sewer main in the floodway of a tributary to West Branch Wallenpaupack Creek. The encroachment is located approximately 1,500 feet east of SR 0348 and SR 2003 (Cortez Road) (Lake Ariel, PA Quadrangle N: 7.1 inches; W: 15.6 inches) in Jefferson Township.

7. (CC1S) An 8-inch diameter PVC gravity sanitary sewer main and a 10-inch diameter D. I. sanitary force main running parallel and in the same trench under a 15-inch diameter CMP which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on Willow Drive, approximately 10 feet west of the intersection with Oak Lane in Floral Estates Development (Lake Ariel, PA Quadrangle N: 7.5 inches; W: 17.1 inches) in Jefferson Township.

8. (CC2S) An 8-inch diameter PVC gravity sanitary sewer main and a 10-inch diameter D. I. sanitary force main running parallel and in the same trench under a 15-inch diameter CMP which carries a tributary to West Branch Wallenpaupack Creek. The project is located on

Oak Lane, approximately 220 feet south of the intersection with Willow Drive in Floral Estates Development (Lake Ariel, PA Quadrangle N: 7.4 inches; W: 17.1 inches) in Jefferson Township.

9. (CC3S) An 8-inch diameter PVC gravity sanitary sewer main and a 10-inch diameter D. I. sanitary force main running parallel and in the same trench under two 15-inch diameter CMPs which carry a tributary to West Branch Wallenpaupack Creek. The crossing is located on Oak Lane, approximately 380 feet south of the intersection with Willow Drive in Floral Estates Development (Lake Ariel, PA Quadrangle N: 7.3 inches; W: 17.0 inches) in Jefferson Township.

10. (CC4S) An 8-inch diameter concrete encased PVC gravity sanitary sewer main under a 15-inch diameter HDPE pipe which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on Butler Hill Road, approximately 280 feet northwest of the intersection with SR 2003 (Cortez Road) in Highview Terrace Development (Lake Ariel, PA Quadrangle N: 8.0 inches; W: 15.7 inches) in Jefferson Township.

11. (CC1A) A 3-inch diameter concrete encased PVC low pressure sanitary sewer main under a 24-inch diameter CMP which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on T-399 (Lake Spangenburg Road), approximately 3,600 feet east of T-410 (Hitchcock Road) (Lake Ariel, PA Quadrangle N: 10.4 inches; W: 11.6 inches) in Jefferson Township.

12. (CC2A) A 4-inch diameter concrete encased PVC low pressure sanitary sewer main under a 24-inch diameter CMP which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on T-399 (Lake Spangenburg Road), approximately 3,000 feet east of T-410 (Hitchcock Road) (Lake Ariel, PA Quadrangle N: 10.6 inches; W: 11.7 inches) in Jefferson Township.

13. (CC3A) A 5-inch diameter concrete encased PVC low pressure sanitary sewer main under a 30-inch diameter RCCP which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on T-399 (Lake Spangenburg Road), approximately 950 feet east of T-410 (Hitchcock Road) (Lake Ariel, PA Quadrangle N: 10.5 inches; W: 12.7 inches) in Jefferson Township.

14. (WC4A-1) A 2.5-inch diameter concrete encased PVC low pressure sanitary sewer main and a 6-inch diameter concrete encased D. I. sanitary force main running parallel and in the same trench across West Branch Wallenpaupack Creek. The crossing is located north of the intersection of T-399 (Lake Spangenburg Road) and West Branch Wallenpaupack Creek (Lake Ariel, PA Quadrangle N: 10.2 inches; W: 13.7 inches) in Jefferson Township.

15. (CC5A) An 8-inch diameter concrete encased PVC gravity sanitary sewer main under a 48-inch diameter CMP which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on SR 2003 (Cortez Road), approximately 1,800 feet northeast of SR 0348 (Lake Ariel, PA Quadrangle N: 7.7 inches; W: 15.8 inches) in Jefferson Township.

16. (SC6A) An 8-inch diameter concrete encased D. I. gravity sanitary sewer main across a tributary to West Branch Wallenpaupack Creek. The crossing is located off of SR 2003 (Cortez Road), approximately 1,500 feet northeast of SR 0348 (Lake Ariel, PA Quadrangle N: 7.7 inches; W: 15.8 inches) in Jefferson Township.

17. (CC7A) A 4-inch diameter concrete encased PVC low pressure sanitary sewer main under a 12-inch diameter CMP which carries a tributary to West Branch

Wallenpaupack Creek. The crossing is located on SR 0348, approximately 5,000 feet east of SR 2003 (Cortez Road) (Lake Ariel, PA Quadrangle N: 7.1 inches; W: 13.8 inches) in Jefferson Township.

18. (SC8A) An 8-inch diameter concrete encased D. I. gravity sanitary sewer main across a tributary to West Branch Wallenpaupack Creek and adjacent wetlands. The crossing is located on SR 0348, approximately 1,200 feet east of SR 0247 (Olyphant, PA Quadrangle N: 6.5 inches; W: 0.2 inch) in Jefferson Township.

19. (CC9A) An 8-inch diameter concrete encased PVC gravity sanitary sewer main under an 18-inch CMP which carries a tributary to Roaring Brook. The crossing is located on Gordon Drive, approximately 180 feet north of SR 0348 (Olyphant, PA Quadrangle N: 5.4 inches; W: 3.1 inches) in Jefferson Township.

20.—22. (SC23, SC24, SC25A) Three 6-inch diameter PVC sanitary sewer laterals across a tributary to Roaring Brook and adjacent wetlands. The crossings are located east of and adjacent to Gordon Drive, approximately 270 feet, 420 feet and 470 feet north of SR 0348 (Olyphant, PA Quadrangle N: 5.5 inches; W: 3.1 inches) in Jefferson Township.

23. (CC10A) A 4-inch diameter concrete encased PVC low pressure sanitary sewer main across a 40-inch diameter CMP which carries West Branch Wallenpaupack Creek. The crossing is located on Old Lake Road, approximately 200 feet north of Sunset Drive (Olyphant, PA Quadrangle N: 9.7 inches; W: 1.9 inches) in Jefferson Township.

24. (CC13A) A 3-inch diameter concrete encased PVC low pressure sanitary sewer main under a 15-inch diameter HDPE pipe which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on Wagon Road, approximately 400 feet northwest of East Shore Drive (Olyphant, PA Quadrangle N: 11.5 inches; W: 2.8 inches) in Jefferson Township.

25. (CC15A) A 2.5-inch diameter concrete encased PVC low pressure sanitary sewer main under a 24-inch diameter RCCP which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on West Shore Drive, approximately 700 feet north of the end of West Shore Drive (Olyphant, PA Quadrangle N: 10.7 inches; W: 3.1 inches) in Jefferson Township.

26. (SC22A) An 8-inch diameter concrete encased D. I. gravity sanitary sewer main and a 10-inch diameter concrete encased D. I. sanitary force main running parallel and in the same trench across tributary to West Branch Wallenpaupack Creek and adjacent wetlands. The crossing is located off of SR 0348, approximately 1,600 feet east of the intersection of SR 2003 (Cortez Road) (Lake Ariel, PA Quadrangle N: 7.0 inches; W: 15.5 inches) in Jefferson Township.

27. (SC25) A 4-inch diameter concrete encased PVC low pressure sanitary sewer main across a tributary to West Branch Wallenpaupack Creek. The crossing is located immediately west of SR 2001 (Wimmers Road) approximately 300 feet southeast of SR 0348 (Lake Ariel, PA Quadrangle N: 6.8 inches; W: 16.6 inches) in Jefferson Township.

28. (CC28) A 3-inch diameter PVC low pressure sanitary sewer main under 15-inch diameter CPP which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on SR 2001 (Wimmers Road), approximately 2,380 feet southeast of SR 0348 (Lake Ariel, PA Quadrangle N: 5.9 inches; W: 16.1 inches) in Jefferson Township.

29. (CC29) A 3-inch diameter PVC low pressure sanitary sewer main under 15-inch diameter RCP which carries a tributary to West Branch Wallenpaupack Creek. The crossing is located on SR 2001 (Wimmers Road), approximately 3,460 feet southeast of SR 0348 (Lake Ariel, PA Quadrangle N: 5.5 inches; W: 15.9 inches) in Jefferson Township.

30. (CC31) A 12-inch diameter D. I. sanitary force main under a 15-inch diameter HDPE pipe which carries a tributary to Little Roaring Brook. The crossing is located on SR 0247, approximately 4,500 feet northwest of Jefferson Boulevard (Olyphant, PA Quadrangle N: 9.4 inches; W: 2.7 inches) in Jefferson Township.

31. (CC32) A 12-inch diameter D. I. sanitary force main under a 15-inch diameter HDPE pipe which carries a tributary to Little Roaring Brook. The crossing is located on SR 0247, approximately 4,750 feet northwest of Jefferson Boulevard (Lake Ariel, PA Quadrangle N: 9.5 inches; W: 2.8 inches) in Jefferson Township.

32. (CC33) A 15-inch diameter PVC gravity sanitary sewer main under a 15-inch diameter CMP which carries a tributary to Little Roaring Brook. The crossing is located on SR 0247, approximately 8,200 feet northwest of Jefferson Boulevard (Lake Ariel, PA Quadrangle N: 10.5 inches; W: 4.1 inches) in Jefferson Township.

33. (CC40) A 15-inch diameter PVC gravity sanitary sewer main under a 15-inch diameter CMP which carries a tributary to Eddy Creek. The crossing is located on SR 0247, approximately 2,800 feet east of SR 2008 (Marshwood Road) (Olyphant, PA Quadrangle N: 11.2 inches; W: 5.5 inches) in the Borough of Jessup.

34. (CC43) A 15-inch diameter PVC gravity sanitary sewer main under a 24-inch diameter CMP which carries a tributary to Eddy Creek. The crossing is located on SR 0247, approximately 790 feet east of SR 2008 (Marshwood Road) (Olyphant, PA Quadrangle N: 11.8 inches; W: 6.2 inches) in the Borough of Jessup.

35. (CC44) A 15-inch diameter PVC gravity sanitary sewer main under a 15-inch diameter CMP which carries a tributary to Eddy Creek. The crossing is located on SR 0247, approximately 650 feet east of SR 2008 (Marshwood Road) (Olyphant, PA Quadrangle N: 11.8 inches; W: 6.3 inches) in the Borough of Jessup.

36. (CC45) A 15-inch diameter PVC gravity sanitary sewer main under a 15-inch diameter CMP which carries a tributary to Eddy Creek. The crossing is located on SR 0247, approximately 310 feet east of SR 2008 (Marshwood Road) (Olyphant, PA Quadrangle N: 11.8 inches; W: 6.4 inches) in the Borough of Olyphant.

37. (CC46) A 15-inch diameter PVC gravity sanitary sewer main under a 15-inch diameter CMP which carries a tributary to Eddy Creek. The crossing is located on SR 0247, approximately 80 feet east of SR 2008 (Marshwood Road) (Olyphant, PA Quadrangle N: 11.8 inches; W: 6.6 inches) in the Borough of Olyphant.

38. (CC47) A 15-inch diameter PVC gravity sanitary sewer main under a 15-inch diameter CMP which carries a tributary to Eddy Creek. The crossing is located on SR 2008 (Marshwood Road), approximately 500 feet west of SR 0247 (Olyphant, PA Quadrangle N: 11.8 inches; W: 6.8 inches) in the Borough of Olyphant.

39. (CC48) A 15-inch diameter PVC gravity sanitary sewer main under a 48-inch diameter CMP which carries Eddy Creek. The crossing is located on SR 2008 (Marshwood Road), approximately 2,700 feet west of SR

0247 (Olyphant, PA Quadrangle N: 11.7 inches; W: 7.9 inches) in the Borough of Olyphant.

40. (CC42) A 15-inch diameter PVC gravity sanitary sewer main under a 24-inch diameter CMP which carries a tributary to Eddy Creek. The crossing is located on SR 0247, approximately 900 feet east of SR 2008 (Marshwood Road) (Olyphant, PA Quadrangle N: 11.8 inches; W: 6.2 inches) in the Borough of Jessup.

41. Two temporary timber mat road crossings of wetlands within the South Branch Wallenpaupack Creek Watershed. The road crossings are associated with utility crossings 1S and 2S and are located approximately 360 feet southeast of the cul-de-sac on Second Street in Jefferson Heights Development and along the abandoned gravity railroad approximately 900 feet west of the intersection with Willow Drive in Floral Estates Development (Olyphant, PA Quadrangle N: 7.8 inches; W: 0.6 inch) in Jefferson Township.

**E54-297. Robert G. Geier**, 95 Spruce Street, Pine Grove, PA 17963-1428. Pine Grove Borough, **Schuylkill County**, Army Corps of Engineers Baltimore District.

To construct and maintain a 12-foot x 16-foot storage shed in the floodway of Swatara Creek. The project is located northeast of the intersection of Spruce and Mill Streets (Pine Grove, PA Quadrangle N: 9 inches; W: 0.75 inch).

**E40-601. Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. Newport Township, **Luzerne County**, Army Corps of Engineers Baltimore District.

To abandon the existing structure and to construct and maintain a stream enclosure of a tributary to Newport Creek, consisting of 187 linear feet of 48-inch RCP followed by 55 linear feet of 66-inch RCP energy dissipater. The project includes relocation of approximately 50 linear feet of channel upstream of the culvert to accommodate the new culvert alignment. The project is located east of Glen Lyon, along SR 3004, Section 351, Segment 0130, Offset 0300 (Nanticoke, PA Quadrangle N: 9.0 inches; W: 8.3 inches).

**E40-604. Walter and Rhoda Kuharchik**, 504 Susquehanna Avenue, West Pittston, PA 18643. West Pittston Borough, **Luzerne County**, Army Corps of Engineers Baltimore District.

To regrade an area along approximately 150 linear feet in the floodway of the Susquehanna River, for the purpose of reducing the steepness of the slope to enhance safety. The project is located along the west bank, approximately 0.4 mile north of the SR 0011 bridge across the Susquehanna River (Pittston, PA Quadrangle N: 15.2 inches; W: 6.1 inches).

**E40-596. Development Options, Inc. c/o CBL & Associates Properties, Inc.**, Watermill Center, 800 South Street, Suite 395, Waltham, MA 02453. Wilkes-Barre Township, **Luzerne County**, Army Corps of Engineers Baltimore District.

To eliminate 0.45 acre of wetlands by regrading a 40-acre lot for the construction of a commercial retail shopping center known as Wilkes-Barre Marketplace. The permittee is required to provide for 0.45 acre of replacement wetlands by participating in the Pennsylvania Wetland Replacement Project. The project is located on the north side of Highland Park Boulevard (Wilkes-Barre East, PA Quadrangle N: 20.5 inches; W: 14.9 inches).

*Northcentral Region: Program Manager, Water Management Program, 208 West Third Street, Williamsport, PA 17701.*

**E12-130. Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 263012. Dominion LN-50 Gas Transmission Line, in Gibson and Grove Townships, **Cameron County**, ACOE Baltimore District (Driftwood, PA Quadrangle N: 8.7 inches; W: 3.9 inches).

To replace, operate and maintain an existing 24-inch diameter pipeline over 18 miles within a 75-foot right-of-way for the transmission of natural gas. Replacement or maintenance of the 24-inch diameter pipeline may require four stream crossings that are as follows:

<i>Stream Name</i>	<i>Water Quality Designation</i>	<i>Pipeline Station Location</i>
Red Run	HQ-CWF	3721+82
Unnamed tributary—Sanders Draft	HQ-CWF	377+82
Laurel Draft	HQ-CWF	3935+25
Sinnemahoning Creek	WWF	4210+61

Gas transmission lines under streambeds shall be replaced so that there will be a minimum of 3-feet of cover between the top of the pipe and the lowest point in the streambed. Trench plugs or clay dikes shall be used at every waterway and wetland crossing to ensure the existing hydrology is not altered. All gas pipeline replacements in waterways shall be completed in dry work conditions by fluming or dam and pumping stream flow around work areas. If upon investigation the Department determines the gas transmission line approved by this permit is serving to degrade water quality, stream profile, meander pattern or channel geometries, then the permittee shall be required to implement all measures necessary to mitigate the degradation. This permit also authorizes the crossing of any wetland that may occur along the 14-mile pipeline right-of-way; during replacement and maintenance operations, the permittee shall take all precautions necessary to ensure that wetland impacts along the right-of-way are temporary. Since Red Run, the unnamed tributary to Sanders Draft and Laurel Draft are wild trout fisheries, no construction or future repair work shall be conducted in or along the stream channels between October 1 and April 1 without prior written authorization from the Fish and Boat Commission. For the purposes of submerged lands of this Commonwealth, this permit incorporates the submerged land license agreement and its fees that are referenced by Permit No. 16655 that was issued by the former Department of Forest and Waters.

**E14-428. John Bzdil, Jr. and Theresa R. Bzdil**, 520 North Eighth Street, Sunbury, PA 17801. Woodward Bridge, in Haines Township, **Centre County**, ACOE Baltimore District (Woodward, PA Quadrangle N: 5.5 inches; W: 13.5 inches).

To rehabilitate and maintain a 12-foot wide wooden deck bridge with a clear span of 21 feet and an underclearance of 8 feet, in Pine Creek located on Sugar Shack Lane, 0.25 mile from its intersection with Cemetery Road. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E41-509. Limestone Township Supervisors**, 1408 Quarry Road, Jersey Shore, PA 17740. Township Road 317 (Wells Road) culvert replacement, in Limestone Township, **Lycoming County**, ACOE Susquehanna River Basin District (Linden, PA Quadrangle N: 4.8 inches; W: 1.6 inches).

To remove an existing structure and construct and maintain a 13.8 foot by 5.45 foot aluminum box culvert on a skew of 27° in an unnamed tributary to Antes Creek located 0.5 mile south of the intersection of SR 0044 and T-317 along T-317, in Limestone Township, **Lycoming County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E41-511. Clyde A. Roan**, 62 Confair Lane, Trout Run, PA 17771. Water Obstruction and Encroachment Permit application, in Lewis Township, **Lycoming County**, ACOE Susquehanna River Basin District (Trout Run, PA Quadrangle N: 4.7 inches; W: 5.7 inches).

To construct and maintain a 30-foot by 24-foot nonresidential picnic pavilion, which is located in the floodway of Lycoming Creek located 1.1 miles north of Trout Run along the southern right-of-way of Myers Road in Lewis Township, **Lycoming County**. This permit was issued under section 105.13(e) "Small Projects."

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E03-406. PC Exploration, Inc.**, 502 Keystone Drive, Warrendale, PA 15086. Cowanshannock Township, **Armstrong County**, ACOE Pittsburgh District.

To construct and maintain a ford crossing in Cowanshannock Creek (WWF) for the purpose of providing access to a gas well. The project is located off of SR 0839 (Plumville, PA Quadrangle N: 119 inches; W: 17.0 inches).

**E11-293. Greater Johnstown School District**, 1091 Broad Street, Johnstown, PA 15906. City of Johnstown, **Cambria County**, ACOE Pittsburgh District.

To construct and maintain three 24-inch slip line corrugated plastic pipe stormwater outfalls and one 12-inch slip line corrugated plastic pipe stormwater outfall along Stony Creek (WWF) and to place and maintain fill along approximately 500 feet of the left bank of Stony Creek (WWF) as part of the construction of the new Greater Johnstown Area High School. The project is located off of Route 403, approximately 3 miles north of its intersection with Route 56 (Johnstown, PA Quadrangle N: 10.0 inches; W: 5.0 inches).

**E32-444. Pennsylvania Department of Transportation**, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701-0429. Canoe Township, **Indiana County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a 1.0-foot depressed concrete box culvert having a normal span of 12.0 feet and an underclearance of 5.0 feet in an unnamed tributary to Canoe Creek (CWF) with alternating baffles at the culvert invert. The project is located on SR 1044, approximately 3,000 feet west of its intersection with SR 0236 (Punxsutawney, PA Quadrangle N: 2.3 inches; W: 13.5 inches).

**E63-528. Overtime on the Mon, Inc.**, Route 88, P. O. Box 610, Fredericktown, PA 15333. East Bethlehem Township, **Washington County**, ACOE Pittsburgh District.

To operate and maintain the existing boat ramp and to construct and maintain a 650.0 foot long x 24.0 foot wide boat docking facility (as measured from the normal pool elevation) in the channel of and along the left bank of the Monongahela River (WWF) and to operate and maintain the existing walkway along the left bank of said stream for the purpose of constructing a marina. The project is

located from River Mile Post 62.85 to River Mile Post 63.1, just upstream from the confluence of Barneys Run and the Monongahela River (California, PA Quadrangle N: 2.6 inches; W: 15.3 inches).

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**E10-358, Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 26301. Existing Natural Gas Pipeline LN 25, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Baden, PA Quadrangle N: 21.1 inches; W: 2.6 inches).

To operate and maintain an existing 20-inch natural gas pipeline LN 25 in Cranberry Township, Butler County from the Beaver County border (N40° 44' 39", W80° 09' 08") approximately 1.5 miles north of the Pennsylvania Turnpike traversing southeast to connect to another pipeline at (N40° 44' 07", W80° 08' 15") approximately 1.3 miles north of the Pennsylvania Turnpike. The project crosses and includes but is not limited to the crossing of the following WWF streams described in the application: unnamed tributary 10 of Brush Creek (N40° 44' 37", W80° 09' 03"), unnamed tributary 11 of Brush Creek (N40° 44' 26", W80° 08' 38") and unnamed tributary 12 of Brush Creek (N40° 44' 12", W80° 08' 18").

**E33-207, Jonathan M. Guth and Amy B. Guth**, 27 North View Drive, Brookville, PA 15825. Swamp Run Stream Crossing, in Knox, **Jefferson County**, ACOE Pittsburgh District (Brookville, PA Quadrangle N: 0.6 inch; W: 7.5 inches).

To construct and maintain a stream crossing across Swamp Run having two 20-foot long, 66-inch diameter corrugated aluminized steel culverts and a 40-foot swale west of and adjacent to the stream. The stream crossing is to access a new residential dwelling and is located approximately 200 feet east of Swamp Run Road (Township Road T-416) approximately 1.6 miles southeast of the intersection of Sky View Road and Swamp Run Road (Township Road T-416).

**E37-144, Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 26301. Existing Natural Gas Pipeline LN 25, in Little Beaver Township, New Beaver Borough and North Beaver Township, **Lawrence County**, ACOE Pittsburgh District (Bessemer, PA Quadrangle N: 5.1 inches; W: 10.0 inches).

To operate and maintain an existing 20-inch natural gas pipeline LN 25 in Little Beaver Township, New Beaver Borough and North Beaver Township Lawrence County from the Ohio border (N40° 55' 45", W80° 31' 09") approximately 0.6 mile north of SR 108 traversing southeast to the northern border of Beaver County (N40° 51' 10", W80° 21' 44"), approximately 1.7 miles west of SR 18. The project crosses and includes but is not limited to the crossing of the following HQ-CWF streams described in the application: unnamed tributary 1 of Sugar Creek (N40° 55' 32", W80° 30' 29"), unnamed tributary 2 of Sugar Creek (N40° 55' 34", W80° 30' 8"), Sugar Creek (N40° 54' 51", W80° 28' 49"), unnamed tributary 1 of Beaverdam Run (N40° 54' 27", W80° 27' 35"), unnamed tributary 2 of Beaverdam Run (N40° 53' 50", W80° 26' 11"), unnamed tributary 3 of Beaverdam Run (N40° 53' 23", W80° 25' 16"), unnamed tributary 4 of Beaverdam Run (N40° 53' 01", W80° 24' 30"), unnamed tributary 1 of North Fork Little Beaver Creek (N40° 52' 35", W80° 23' 42"), unnamed tributary 2 of North Fork Little Beaver Creek (N40° 52' 16", W80° 23' 11"), unnamed tributary 3 of North Fork Little Beaver Creek (N40° 51' 49", W80° 22' 39"), and an unnamed tributary 1 of Jordan Run (N40° 51' 30", W80° 22' 13").

*Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481; (814) 332-6860.*

**E62-385, Pierce & Petersen Oil**, P. O. Box 627, Warren, PA 16365. Mead Township, **Warren County**, ACOE Pittsburgh District (Clarendon, PA Quadrangle N: 10.3 inches; W: 2.3 inches and N: 10.25 inches; W: 1.6 inches).

To construct and maintain 2,600 feet of 3-inch diameter plastic pipeline to transport oil and gas from wells on Lots 40 and 49 to an existing pipeline on Lot 39. The pipeline will cross underneath (by trenching) Browns Run (Designated Use: CWF; Existing Use: EV) twice. One crossing will be approximately 1,000 feet west of the southern end of Forest Service Road 160D and the other will be approximately 350 south of intersection of an unnamed access road and Forest Service Road 160D.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**E446-034CO, Wyeth-Ayerst Pharmaceuticals, Inc.**, 2100 Renaissance Boulevard, King of Prussia, PA 19406. Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

Project proposes to breach and remove an unnamed dam across Doe Run (TSF) for the purpose of restoring the stream to a free flowing condition. The dam is located approximately 300 feet northeast of the intersection of Arcola Road (T402) and Troutman Road (T405) (Collegeville, PA Quadrangle N: 5.9 inches; W: 12.5 inches).

#### SPECIAL NOTICES

##### Certified Emission Reduction Credits (ERCs) in the Commonwealth's ERC Registry

ERCs are surplus, permanent, quantified and Federally enforceable emission reductions used to offset emission increases of NOx, VOCs and the following criteria pollutants: carbon monoxide, lead, SOx, particulate matter (PM), PM10 and PM10 precursors.

The Department of Environmental Protection (Department) maintains an ERC registry in accordance with the requirements of 25 Pa. Code § 127.209. The ERC registry system provides for the tracking of the creation, transfer and use of ERCs. Prior to registration of the credits, ERC Registry Applications are reviewed and approved by the Department to confirm that the ERCs meet the requirements of 25 Pa. Code §§ 127.206—127.208. Registration of the credits in the ERC registry system constitutes certification that the ERCs satisfy applicable requirements and that the credits are available for use. The following registered and certified ERCs in the ERC Registry are currently available for use as follows:

- (1) To satisfy new source review (NSR) emission offset ratio requirements.
- (2) To "net-out" of NSR at ERC-generating facilities.
- (3) To sell or trade the ERCs for use as emission offsets at new or modified facilities.

The certified ERCs shown, expressed in tons per year (tpy), satisfy the applicable ERC requirements contained in 25 Pa. Code §§ 127.206—127.208. ERCs created from the curtailment or shutdown of a source or facility expires for use as offsets 10 years after the emission reduction occurs. ERCs generated by the over control of emissions

by an existing facility do not expire for use as offsets. However, credits in the registry which are not used in a plan approval will be discounted if new air quality requirements are adopted by the Department or the EPA.

For additional information concerning this listing of certified ERCs, contact Virendra Trivedi, Bureau of Air

Quality, Division of Permits, Department of Environmental Protection, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended use of ERCs</i>
Rexam Beverage Can Company County: Lehigh Ozone Nonattainment Status: Moderate Contact Person: Geoffrey A. Wortley (773) 399-3389	VOCs	22.70	11/06/2002	Trading
National Fuel Gas Supply Corp. Roystone Compressor Station County: Warren Ozone Nonattainment Status: Moderate Contact Person: Gary A. Young (814) 871-8657	NOx	103.30	12/28/2002	Internal Use and Trading
United States Naval Hospital County: Philadelphia Nonattainment Status: Severe Contact Person: Mark Donato (215) 897-1809	NOx	30.50	3/31/2005	Trading
R. R. Donnelley & Sons Co. County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: Frederick Shaak, Jr.	VOCs	54.00		Internal Use
R. R. Donnelley & Sons Co. County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: Frederick Shaak, Jr.	VOCs	25.00	3/30/2011	Internal Use
Kurz Hastings Inc. County: Philadelphia Nonattainment Status: Severe Contact Person: George Gornick (215) 632-2300	VOCs	137.45		Trading
Sharon Steel Corp. Source Location: Farrell County: Mercer Ozone Nonattainment Status: Moderate Contact Person: Robert Trbovich (412) 983-6161	VOCs	4.70	11/30/2002	Trading
Pennsylvania Power Company (PA Power) Source Location: New Castle Plant County: Lawrence Ozone Nonattainment Status: Moderate Contact Person: Donald R. Schneider (412) 652-5531	NOx	257.75	4/02/2003	Trading
Ford New Holland, Inc. Source Location: Mountville County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: William E. Knight (717) 355-4903	NOx VOCs	4.00 78.00	1/22/2003	Trading
Con Agra Grocery Products Company Source Location: Milton Borough County: Northumberland Ozone Nonattainment Status: Moderate Contact Person: Michael West (570) 742-6639	NOx VOCs	24.45 12.88	4/1/2006	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended use of ERCs</i>
Scranton-Altoona Terminal Corporation Source Location: Pittston Township County: Luzerne Ozone Nonattainment Status: Moderate Contact Person: John M. Arnold (717) 939-0466	VOCs	18.36	1/1/2003	Trading
Metallized Paper Corporation of America Recipient/Holder: PNC Bank, National Association, assignee (by private lien foreclosure) from Metallized Paper Corp. Source Location: McKeesport County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Martin Mueller (412) 762-5263	VOCs	41.70	06/30/2006	Trading
PPG Industries, Inc. Source Location: Springdale Complex County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Lori Burgess (412) 274-3884	VOCs	171.82		Trading
York International Corporation Sources: Trichloroethylene Vapor Degreaser (151) Trichloroethylene Vapor Degreaser (152) Source Location: Spring Garden Township County: York Ozone Nonattainment Status: Moderate Contact Person: Garen Macdonald (717) 771-7346	VOCs VOCs	12.20 2.70	06/01/2006 10/01/2005	Trading
REXAM DSI Source Location: Muhlenberg Township County: Berks Ozone Nonattainment Status: Moderate Contact Person: LeRoy H. Hinkle (610) 916-4248	NOx SOx	9.42 51.05	11/22/2005	Trading
Recipient/Holder of ERC: Coastal Aluminum Rolling Mills Inc. ERC Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-generating facility location: Quakertown, Bucks Ozone Nonattainment Status: Severe Contact Person: Jesse Hackenberg (570) 323-4430	VOCs	3.62		Internal Use/ Trading
Recipient/Holder of ERC: PG&E Energy Trading-Power, L.P. ERC Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-generating facility location: Quakertown, Bucks Ozone Nonattainment Status: Severe Contact Person: Mark Sheppard (301) 280-6607	VOCs	39.84	8/1/2006	Trading
Baldwin Hardware Corporation Source Location: Reading County: Berks Ozone Nonattainment Status: Moderate Contact Person: D. David Hancock, Jr. (215) 777-7811	VOCs	18.00	7/28/2005	Trading



<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended use of ERCs</i>
Magee Rieter Automotive Systems Source Location: Bloomsburg County: Columbia Ozone Nonattainment Status: Moderate Contact Person: Tim Bergerstock (717) 784-4100	NOx VOCs	0.39 0.02	4/17/2006	Internal Use
Congoleum Corporation Source Location: Marcus Hook County: Delaware Ozone Nonattainment Status: Severe Contact Person: Theresa C. Garrod (609) 584-3000	NOx	5.20		Trading
Dominion Transmission, Inc. CNG Transmission Corporation Source Location: Leidy Township County: Clinton Ozone Nonattainment Status: Moderate Contact Person: Sean R. Sleigh (304) 623-8462	NOx VOCs	15.28 0.55	10/27/2004	Internal Use/ Trading
Bethlehem Structural Products Corp. Source Location: Bethlehem County: Northampton Ozone Nonattainment Status: Moderate Contact Person: Joseph E. Schindler (610) 694-5104	NOx VOCs	1054.00 473.80	Varies from 3/28/2008 to 6/19/2008	Trading
Morgan Adhesives Company (MACTac) Source Location: Scranton County: Lackawanna Ozone Nonattainment Status: Moderate Contact Person: Tim Owens (330) 688-1111	VOCs	75.00	6/30/2008	Trading
Meritor Heavy Vehicle Systems LLC Source Location: New Castle County: Lawrence Ozone Nonattainment Status: Moderate Contact Person: Harry Klodowski (724) 940-4000	NOx	54.40	5/31/2003	Trading
Recipient/Holder of ERC: Dominion Energy, Inc. ERC Generating Facility: Superpac, Inc. ERC-generating facility location: Southampton, Bucks County Ozone nonattainment status: Severe Contact Person: David H. Testa (412) 690-1815	VOCs	3.90 4.20 4.70	11/23/2002 1/8/2003 9/30/2003	Trading
National Fuel Gas Supply Corporation Sources: Generators, # 1 Source Location: Ellisburg Station County: Potter Ozone Nonattainment Status: Moderate Contact Person: Gary A. Young (814) 871-8657	NOx VOCs	16.14 1.80	2/1/2009	Internal Use
General Electric Company Source Location: Lawrence Park County: Erie Ozone Nonattainment Status: Moderate Contact Person: Scott Gowdy (814) 875-2427	VOCs	44.20	Varies from 12/31/2003 to 12/31/2005	Internal Use/ Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended use of ERCs</i>
Sun Company, Inc. Source: API Separator 10 and 1-F Source Location: Marcus Hook County: Delaware Ozone Nonattainment Status: Severe Contact Person: John A. Rossi	VOCs	2.37	9/30/2004	Internal Use
TYK America, Inc. Source Location: Irvona Facility County: Clearfield Ozone Nonattainment Status: Moderate Contact Person: David B. Orr (412) 384-4259	NOx VOCs PM10	0.30 0.02 0.24	11/6/2008	Trading
SmithKline Beechman Pharmaceuticals Sources: Two boilers and oxidizer Source Location: Spring Garden Street Facility County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Eileen Ackler (610) 239-5239	NOx VOCs	5.72 0.10	12/31/2008	Trading
Recipient/Holder of ERC: PG&E Energy Trading-Power, L. P. ERC Generating Facility: Global Packaging, Inc. ERC-generating facility location: Oaks Plant, Montgomery County Ozone Nonattainment Status: Severe Contact Person: Sarah M. Barpoulis (301) 280-6607	VOCs	7.70	9/1/2006	Trading
Recipient/Holder of ERC: PG&E Energy Trading-Power, L. P. ERC Generating Facility: Global Packaging, Inc. ERC-generating facility location: Oaks Plant, Montgomery County Ozone Nonattainment Status: Severe Contact Person: Sarah M. Barpoulis (301) 280-6607	VOCs	43.50		Trading
The Procter & Gamble Paper Products Company Source Location: Mehoopany Plant County: Wyoming Ozone Nonattainment Status: Moderate Contact Person: Jim Brogan (717) 833-6022	NOx VOCs	136.00 237.67	5/3/2009	Internal Use/ Trading
Recipient/Holder of ERC: Air Resources Group, LLC ERC Generating Facility: Cogentrix of Pennsylvania, Inc. ERC-generating facility location: Ringgold Township County: Jefferson County Ozone nonattainment status: Moderate Contact Person: David Alexander	NOx	658.72	9/1/2010	
Cogentrix of Pennsylvania, Inc. Source Location: Ringgold Township County: Jefferson County Ozone nonattainment status: Moderate Contact Person: Tracy Patterson (804) 541-4246	VOCs	31.61	9/1/2010	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended use of ERCs</i>
Caparo Steel Company Source: EAF Furnace #2 and Ladle Preheater #2 Source Location: Farrell Plant County: Mercer County Ozone nonattainment status: Moderate Contact Person: Richard A. Herman (724) 983-6464	NOx VOCs	36.73 12.07	08/18/2007	Trading
Caparo Steel Company Source Name: Anneal Pickle Line and Coating Line Source Location: Farrell Plant County: Mercer County Ozone nonattainment status: Moderate Contact Person: Richard A. Herman (724) 983-6464	NOx VOCs	9.10 0.17	11/9/2002	Trading
LTV Steel Company, Inc. Source Location: Pittsburgh Coke Plant County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: R. M. Zavoda (216) 429-6542	NOx VOCs	1663.00 437.00	2/28/2008	Trading/ Internal Use
Newcomer Products Inc. Source Location: Latrobe County: Westmoreland Ozone Nonattainment Status: Moderate Contact Person: Edward M. Nemeth (724) 694-8100	VOCs	45.00	7/14/2010	Trading
Smith-Steelite Plant: Emsworth Manufacturing Facility Ozone Nonattainment Status: Moderate Contact Person: Wm. K. Shadle (412) 299-8167	VOCs	7.32	6/7/2004	Trading
Cyprus Cumberland Resources Corporation Source Location: Cumberland Mine, Whiteley Township County: Greene Ozone Nonattainment Status: Moderate Contact Person: Terry L. Dayton (412) 627-2219	NOx VOCs	64.00 15.00	6/30/2005	Trading
Allegheny Ludlum Corp. Sources: Three electric arc furnaces Source Location: Washington Plant County: Washington Ozone Nonattainment Status: Moderate Contact Person: Deborah L. Calderazzo (724) 226-5947	NOx	7.78	7/31/2004	Trading
Armstrong World Industries Source Location: Beaver Falls County: Beaver Ozone Nonattainment Status: Moderate Contact Person: Wayne Pease (412) 843-5700	VOCs	6.00	4/30/2003	Trading
Rohm & Haas County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Frank Jackson (215) 537-4000	VOCs	27.50 6.10	3/26/2003 7/31/2003	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended use of ERCs</i>
Scranton-Altoona Terminals Corporation Source Location: Monroe Township County: Cumberland County Ozone nonattainment status: Moderate Contact Person: Thomas M. Carper (717) 939-0466	VOCs	4.84	9/30/2010	Trading
Pennzoil Wax Partner Company Source Location: Rouseville County: Venango Ozone Nonattainment Status: Moderate Contact Person: David W. Dunn (713) 546-6941	NOx VOCs	15.47 0.68	2/26/2010	Trading
Pennzoil Wax Partner Company Source Location: Rouseville County: Venango Ozone Nonattainment Status: Moderate Contact Person: David W. Dunn (713) 546-6941	NOx VOCs	2.82 44.34	4/1/2010	Trading
INDSPEC Chemical Corp. Source: Boiler # 8 Source Location: Petrolia County: Butler Ozone Nonattainment Status: Moderate Contact Person: Terry Melis (412) 756-2376	NOx	158.68		Trading
Sun Company, Inc. Sources: Separators Source Location: Marcus Hook Borough County: Delaware Ozone nonattainment status: Severe Contact Person: Steve Martini (610) 859-1000	VOCs	81.88	9/30/2004	Trading/ Internal Use
Sun Company, Inc. Source: Wastewater Conveyance System Source Location: Marcus Hook Borough County: Delaware Ozone nonattainment status: Severe Contact Person: Steve Martini (610) 859-1000	VOCs	426.59		Trading/ Internal Use
Jefferson Smurfit Corporation Source Location: Upper Providence Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Joseph Timcik (610) 935-4000	VOCs	12.4	5/31/2004	Trading/ Internal Use
Columbia Gas Transmission Corporation Source Location: Kent Station County: Indiana Ozone nonattainment status: Moderate Contact Person: Gregory Lago (304) 357-2079	NOx VOCs	44.36 2.66	5/31/2011	Trading
Columbia Gas Transmission Corporation Source Location: Homer Station County: Indiana Ozone nonattainment status: Moderate Contact Person: Gregory Lago (304) 357-2079	NOx VOCs	45.89 3.79	5/31/2011	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended use of ERCs</i>
Bethlehem Steel Corporation Source Location: Steelton Plant County: Dauphin Ozone Nonattainment Status: Moderate Contact Person: James R. Hernjak (717) 986-2042	NOx VOCs	3.00 26.47	12/31/2002	Trading
Bethlehem Steel Corporation Source: Rail Heat Treating and Quenching Source Location: Steelton Plant County: Dauphin Ozone Nonattainment Status: Moderate Contact Person: James R. Hernjak (717) 986-2042	NOx VOCs	7.00 43.00	11/9/2009	Trading
General Electric Transportation System Source: Boiler # 2 Source Location: E. Lake Road County: Erie Ozone nonattainment status: Moderate Contact Person: Mark D. Restifo (814) 875-5406	NOx VOCs	280.90 1.70	12/31/2010	Trading
Hershey Foods Corporation Source Location: East Plant County: Dauphin Ozone Nonattainment Status: Moderate Contact Person: Shawn P. Greenwood (610) 678-0552	NOx	189.00	10/4/2004	Trading
3M Minnesota Mining & Manufacturing Source Location: Bristol Plant County: Bucks Ozone Nonattainment Status: Severe Contact Person: Jeff Muffat (651) 778-4450	VOCs VOCs	607.00 279.00	11/30/2011 12/17/2011	Trading
Standard Steel, Division of Freedom Forge Source Location: Burnham County: Mifflin Ozone Nonattainment Status: Moderate Contact Person: John O. Parke (717) 248-4911	NOx NOx VOCs VOCs	17.63 48.42 0.39 0.12	2/24/2003 8/1/2003 2/24/2003 8/1/2003	Trading
Kosmos Cement Company, Cemex Inc. Source Location: Neville Road, Pittsburgh County: Allegheny Ozone nonattainment status: Moderate Contact Person: Amarjit Gill (713) 653-8554	NOx VOCs PM10 SOx CO	910.00 26.00 61.00 442.00 44.00	4/24/2011	Trading
Transit America, Inc. Source Location: One Red Lion Road Ozone Nonattainment Status: Severe Contact Person: Robert Hyams (215) 934-3413	NOx	43.8	4/30/2004	Trading
JG Furniture Group, Inc. Source Location: Quakertown, Bucks County: Bucks Ozone Nonattainment Status: Severe Contact Person: Donald Boisselle (336) 410-7263	VOCs	24.4	9/1/2007	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended use of ERCs</i>
Recipient/Holder of ERC: Cypress Energy, Inc. ERC Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Ozone nonattainment status: Severe Contact Person: Gary Stephenson (781) 993-3098	NOx VOCs	104.00 45.00	11/29/2011	Trading
Recipient/Holder of ERC: Natsource Emissions Brokers ERC Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Ozone nonattainment status: Severe Contact Person: David Oppenheimer (212) 232-5300	NOx VOCs	0.27 1.50	11/29/2011	Trading
Trinity Industries, Inc. Source Location: Greenville County: Mercer County Ozone nonattainment status: Moderate Contact Person: Dennis Lencioni (214) 589-8141	VOCs	61.65	10/31/2010	Trading

#### Summary of ERC Transactions

The following ERC transactions are approved by the Department's Bureau of Air Quality. The ERC transaction requirements are specified in 25 Pa. Code § 127.208.

##### 1 *ERC GENERATING FACILITY INFORMATION*

ERC Generating Facility Name: Laclede Steel Company  
Location of Source: Falls Township, Bucks County, PA  
Certified ERCs (tpy): 104.27 tpy of NOx and 46.5 tpy of VOCs  
Amount of ERCs traded to Purchaser/Recipient: 104 tpy of NOx and 45 tpy of VOC ERCs;  
0.27 tpy of NOx and 1.5 tpy of VOC ERCs

Date of ERCs Transfer: 8/23/2002; 8/23/2002  
ERCs available for future use: 0

#### PURCHASER/RECIPIENT OF ERCs

Purchaser/Recipient of ERCs: Cypress Energy, Inc.  
NOx and VOC credits used: 0  
NOx credits available for future use: 104 tpy  
VOCs credits available for future use: 45 tpy

Purchaser/Recipient of ERCs: Williams Energy Marketing & Trading Company  
NOx and VOC credits used: 0  
NOx credits available for future use: 0.27 tpy  
VOCs credits available for future use: 1.5 tpy

##### 2 *ERC HOLDER/GENERATING FACILITY INFORMATION*

ERC Holder/Transferor: Williams Energy Marketing & Trading Company  
ERC Generating Facility Name: Laclede Steel Company  
Location of Source: Falls Township, Bucks County, PA  
Certified ERCs (tpy): 0.27 tpy of NOx and 1.5 tpy of VOCs  
Amount of ERCs traded to Purchaser/Recipient: 0.27 tpy of NOx and 1.5 tpy of VOCs  
Date of ERCs Transfer: 09/20/2002  
ERCs available for future use: 0

#### PURCHASER/RECIPIENT OF ERCs

Purchaser/Recipient of ERCs: Natsource Emissions Brokers  
NOx and VOCs credits used: 0  
NOx credits available for future use: 0.27 tpy  
VOCs credits available for future use: 1.5 tpy

### Request for Proposals For Municipal Solid Waste Capacity

The following notice is placed through the Department of Environmental Protection as required by section 502(d) of the Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101.

Schuylkill County, through the Office of Solid Waste and Resource Management, is soliciting disposal/processing facilities to provide all or part of the disposal capacity required annually for Schuylkill County municipal waste for the next 10 years. Interested parties should contact the Schuylkill County Office of Solid Waste and Resource Management at (570) 628-1220 to obtain a copy of the Facility Qualification Request, which will be used to qualify facilities to participate in the Schuylkill County Municipal Waste Management Plan. Responses to the Facility Qualification Requests must be submitted by October 23, 2002, at 3 p.m.

### Coal and Clay Mine Subsidence Insurance Fund Board Meeting

A meeting of the Coal and Clay Mine Subsidence Insurance Fund Board will take place on November 18, 2002, at 10 a.m. in the 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

The agenda for this meeting will be available through the Public Participation Center on the Department's website at <http://www.dep.state.pa.us>. Questions regarding the agenda may be directed to Lawrence Ruane, (717) 783-9590, [lruane@state.pa.us](mailto:lruane@state.pa.us).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Lawrence Ruane at (717) 783-9590 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

[Pa.B. Doc. No. 02-1888. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Request for Applications for Watershed Restoration and Protection Grants through the Growing Greener Program

As part of the fifth year of the Department of Environmental Protection's (Department) Growing Greener Program (Program), applications are now being accepted for watershed protection and restoration grants.

For year five, the Department projects to invest more than \$50 million in a variety of watershed projects, including: organizing a watershed group; watershed assessments and development of watershed restoration and protection plans; implementation of watershed restoration or protection projects; demonstration; education/outreach programs; reclaiming abandoned mines and oil and gas wells; and addressing acid mine drainage polluted streams.

Applications are now being accepted online at [www.dep.state.pa.us/direct](http://www.dep.state.pa.us/direct) LINK "Year 5 App." The deadline for submitting applications to the Department Grants Center is February 3, 2003. Applications must be postmarked or received by 4:30 p.m. on February 3, 2003. Faxed copies will not be accepted.

To provide personalized assistance in answering questions about the Program, the Department is sponsoring a

series of grants fairs throughout the State. The grants fairs will not only provide valuable Program support, they will also provide the opportunity to explore other valuable grant programs offered through the Department. These sessions provide an opportunity to talk one-on-one to staff involved in grants for the Program, flood protection, recycling, source water protection, storage tanks, pollution prevention and energy efficiency. Grants fairs will be offered at the following dates, times and locations:

Wednesday, November 13, 2002 Holiday Inn— 3-6:30 p.m. Wilkes-Barre, Luzerne County	Wednesday, November 13, 2002 Four Points Sheraton— 1:30-6:30 p.m. Greensburg, Westmoreland County
Thursday, November 14, 2002 Four Points Sheraton— 2-6:30 p.m. Harrisburg, Dauphin County	Wednesday, November 20, 2002 Spring Mill Fire Hall— 2-6:30 p.m. Conshohocken, Montgomery County
Thursday, November 21, 2002 Days Inn—3-5:30 p.m. Meadville, Crawford County	Monday, November 25, 2002 Genetti Hotel—2-6:30 p.m. Williamsport, Lycoming County

To request an application or obtain more information concerning the Program, visit the Program website at [www.GrowingGreener.org](http://www.GrowingGreener.org), e-mail [GrowingGreener@state.pa.us](mailto:GrowingGreener@state.pa.us) or contact the Department Grants Center at (877) PAGREEN or (717) 705-5400. Written correspondence should be addressed to Department of Environmental Protection, Grants Center, 15th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8776, Harrisburg, PA 17105-8776.

DAVID E. HESS,  
*Secretary*

[Pa.B. Doc. No. 02-1889. Filed for public inspection October 25, 2002, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Holy Spirit Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Holy Spirit Hospital has requested an exception to the requirements of 28 Pa. Code § 107.61 (relating to written orders).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: [ra-paexcept@state.pa.us](mailto:ra-paexcept@state.pa.us).

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or V/TT (717) 783-6514 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,  
Secretary

[Pa.B. Doc. No. 02-1890. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Application of Ohio Valley General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Ohio Valley General Hospital has requested an exception to the requirements of 28 Pa. Code § 51.3(g)(4) (relating to notification).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: ra-paexcept@state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or V/TT: (717) 783-6514 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,  
Secretary

[Pa.B. Doc. No. 02-1891. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Application of Reproductive Science Institute for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Reproductive Science Institute has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 9.5.D1, 9.5.D2, 9.5.D8, 9.5.F2.c, 9.5.F4, 9.5.F5.b, 9.5.F5c, 9.5.F5.h, 9.5.F5i, 9.5.F5j, 9.5.F5k, 9.5.F5m, 9.5.F5n, 9.5.H1, 9.5.H1.c, 9.5.H1.e, 9.5.H2.a(3) and 9.5.H2.b(3).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and

Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the numbers previously listed, V/TT: (717) 783-6514 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,  
Secretary

[Pa.B. Doc. No. 02-1892. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee Public Meeting

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Wednesday, November 20, 2002.

The meeting will be held at the Best Western Inn and Suites, 815 Eisenhower Boulevard, Middletown, PA, 17057, from 9 a.m. to 3 p.m.

The Department reserves the right to cancel this meeting without prior notice.

For additional information, or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodations to do so should contact Thomas M. DeMelfi, Department of Health, Bureau of Communicable Diseases, P. O. Box 90, Room 1010, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-0572 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

ROBERT S. ZIMMERMAN, Jr.,  
Secretary

[Pa.B. Doc. No. 02-1893. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee (Committee), established under 20 Pa.C.S. § 8622 (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund), will hold a public meeting by conference call for Committee members on December 11, 2002, from 11 a.m. to 1 p.m. The conference call meeting will originate from, and be held in, Room 812, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA.



For additional information, contact William J. Neil, Manager, Health Education and Information Program, Bureau of Chronic Diseases and Injury Prevention, Room 1000, Health and Welfare Building, Harrisburg, PA, (717) 787-5900.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact William J. Neil at (717) 787-5900, V/TT (717) 783-6514 for speech and/or hearing impaired or Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-1894. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Patient Safety Authority Meeting

A meeting of the Patient Safety Authority is scheduled to be held on Monday, November 18, 2002, from 9:30 a.m. until 4 p.m. at the Wildwood Conference Center, Harrisburg Area Community College, One HACC Drive, Harrisburg, PA. 17120.

For additional information, contact Stacey Schwartz, Office of Physician General, (717) 783-8770. Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should contact Stacey Schwartz at the previous number or for Speech and/or Hearing Impaired Persons V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-1895. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (Pub. L. No. 104-66) will hold a public meeting on Wednesday, November 6, 2002, at the Department of Education, Heritage A Conference Room, 333 Market Street, Harrisburg, PA, from 10 a.m. to 3 p.m.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Elaine M. Terrell at (717) 772-4959, V/TT (717) 783-6514 for speech and/or hearing impaired or Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-1896. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Update of List of Citations to ACIP Recommendations Prescribing Child Immunization Practices and Immunizing Agents and Doses

In accordance with 31 Pa. Code §§ 89.806(a) and 89.807(b) (relating to coverage of child immunizations; and immunizing agents, doses and AWP), the Department of Health (Department), Bureau of Communicable Diseases, Division of Immunization is updating 31 Pa. Code §§ 89.801—89.809, Appendix G (relating to ACIP recommendations prescribing child immunization practices) and Appendix H (relating to immunizing agents and doses). The Department has primary responsibility for the interpretation and the implementation of 31 Pa. Code §§ 89.806 and 89.807. See 31 Pa. Code § 89.801(b) (relating to authority and purpose; implementation).

Health insurance policies are required by the Childhood Immunization Insurance Act (act) (40 P.S. §§ 3501—3508) and regulations promulgated thereunder (see 31 Pa. Code §§ 89.801—89.809 (relating to childhood immunization insurance)) to include coverage for certain childhood immunizations, unless the policies are exempted by the act and 31 Pa. Code § 89.809 (relating to exempt policies). The childhood immunizations covered are those that meet Advisory Committee on Immunization Practices (ACIP) standards in effect on May 21, 1992 (see 31 Pa. Code § 89.806(a)). A list of the Centers for Disease Control Morbidity and Mortality Weekly Report (MMWR) publications containing ACIP recommendations issued under the ACIP standards in effect on May 21, 1992, appears in 31 Pa. Code §§ 89.801—89.809, Appendix G.

The Department is required to update the list of these MMWR publications appearing in 31 Pa. Code §§ 89.801—89.809, Appendix G. See 31 Pa. Code § 89.806(a). The additions to the list are as follows, the remainder of the list at 31 Pa. Code §§ 89.801—89.809, Appendix G remains in full force and effect:

“Notice to Readers: FDA Approval for a Combined Hepatitis A and B Vaccine,” MMWR, September 21, 2001 / Vol. 50 / No.37.

“Simultaneous Administration of Varicella Vaccine and Other Recommended Childhood Vaccines—United States, 1995-1999,” MMWR, November 30, 2001 / Vol. 50 / No.47.

“General Recommendations on Immunization,” MMWR, February 8, 2002 / Vol. 51 / No. RR-2.

“Prevention and Control of Influenza,” MMWR, April 12, 2002 / Vol. 51 / No. RR-3.

The Department is also required to update information relating to immunizing agents and doses that the Department has extracted from ACIP recommendations issued under the standards in 31 Pa. Code § 89.806(a). See 31 Pa. Code § 89.807(b). The Department is also to periodically list the average wholesale price (AWP) for immunizing agents. This information currently appears in 31 Pa. Code §§ 89.801—89.809, Appendix H. The updated information is as follows:

**List of Immunizing Agents and Average Wholesale Prices for 2002**

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose</i>
Diphtheria Tetanus acellular Pertussis Vaccine (DTaP):					
Aventis Pasteur	Tripedia	49281-0298-10	10 x 1	0.5 ml	\$23.81
GlaxoSmithKline	Infanrix	58160-0840-11	10 x 1	0.5 ml	\$24.01
Diphtheria Tetanus pediatric Vaccine (DT pediatric):					
Aventis Pasteur	DT Pediatric	49281-0275-10	5.0 ml	0.5 ml	\$9.89
Diphtheria Tetanus acellular Pertussis/Haemophilus Influenzae B (DTaP-HIB):					
Aventis Pasteur	TriHIBit	49281-0597-05	5 x 1	0.5 ml	\$23.89
Tetanus Diphtheria adult Vaccine (Td adult):					
Aventis Pasteur	Td Adult syringe	49281-0271-10	10 x 1	0.5 ml	\$11.50
Aventis Pasteur	Td Adult	49281-0271-83	5.0 ml	0.5 ml	\$9.89
Haemophilus Influenzae B Vaccine (HIB):					
Wyeth-Lederle	HibTITER	0005-0104-32	5 x 0.5	0.5 ml	\$28.38
Aventis Pasteur	ActHIB	49281-0545-05	5 x 1	0.5 ml	\$27.04
Merck & Co.	Pedvax HIB	0006-4897-00	10 x 0.5	0.5 ml	\$25.60
Injectable Polio Vaccine Inactivated (Salk Enhanced IPV):					
Aventis Pasteur	IPOLE	49281-0860-10	5.0 ml	0.5 ml	\$25.07
Aventis Pasteur	IPOLE	49281-0860-52	10 x 1	0.5 ml	\$28.95
Measles Mumps Rubella Vaccine (MMR):					
Merck & Co.	MMR II	0006-4749-00	0.5 ml	0.5 ml	\$43.76
Merck & Co.	MMR II	0006-4681-00	10 x 0.5	0.5 ml	\$37.93
Measles Vaccine (Rubeola):					
Merck & Co.	Atenuvax	0006-4709-00	0.5 ml	0.5 ml	\$18.11
Merck & Co.	Atenuvax	0006-4589-00	10 x 0.5	0.5 ml	\$14.55
Mumps Vaccine (Mumps):					
Merck & Co.	Mumpsvax	0006-4753-00	0.5 ml	0.5 ml	\$20.89
Merck & Co.	Mumpsvax	0006-4584-00	10 x 0.5	0.5 ml	\$18.79
Rubella (German Measles):					
Merck & Co.	Meruvax II	0006-4747-00	0.5 ml	0.5 ml	\$18.98
Merck & Co.	Meruvax II	0006-4673-00	10 x 0.5	0.5 ml	\$16.20
Hepatitis A Vaccine Pediatric (HEP-A):					
Merck & Co.	VAQTA	0006-4831-00	0.5 ml	0.5 ml	\$35.93
Merck & Co.	VAQTA	0006-4831-38	5 x 0.5	0.5 ml	\$33.91
Merck & Co.	VAQTA syringe	0006-4845-00	0.5 ml	0.5 ml	\$35.93
Merck & Co.	VAQTA syringe	0006-4845-38	5 x 0.5	0.5 ml	\$33.91
GlaxoSmithKline	Havrix	58160-0837-01	0.5 ml	0.5 ml	\$34.16
GlaxoSmithKline	Havrix	58160-0837-11	10 x 0.5	0.5 ml	\$32.67
GlaxoSmithKline	Havrix syringe	58160-0837-50	25 x 0.5	0.5 ml	\$36.67
GlaxoSmithKline	Havrix syringe	58160-0837-46	5 x 0.5	0.5 ml	\$36.67
GlaxoSmithKline	Havrix syringe	58160-0837-50	25 x 0.5	0.5 ml	\$36.67
GlaxoSmithKline	Havrix syringe	58160-0837-58	25 x 0.5	0.5 ml	\$32.67
Hepatitis A Vaccine Adult (HEP-A):					
Merck & Co.	VAQTA	0006-4841-00	1.0 ml	1.0 ml	\$71.85
Merck & Co.	VAQTA	0006-4841-38	5 x 1.0	1.0 ml	\$67.81
Merck & Co.	VAQTA syringe	0006-4844-00	1.0 ml	1.0 ml	\$71.85
Merck & Co.	VAQTA syringe	0006-4844-38	5 x 1.0	1.0 ml	\$67.81
GlaxoSmithKline	Havrix	58160-0835-01	0.5 ml	0.5 ml	\$66.94
GlaxoSmithKline	Havrix syringe	58160-0835-41	1 x 0.5	0.5 ml	\$65.50
GlaxoSmithKline	Havrix syringe	58160-0835-46	5 x 0.5	0.5 ml	\$65.50
Hepatitis B Vaccine (HEP-B):					
Merck & Co.	(1) Recombivax HB	00006-4980-00	0.5 ml	0.5 ml	\$30.48
Merck & Co.	(1) Recombivax HB	00006-4981-00	10 x 0.5	0.5 ml	\$29.01
Merck & Co.	(2) Recombivax HB	00006-4769-00	0.5 ml	0.5 ml	\$30.48
Merck & Co.	(2) Recombivax HB	00006-4876-00	10 x 0.5	0.5 ml	\$28.66
Merck & Co.	(2) Recombivax HB	00006-4849-00	5 x 0.5	0.5 ml	\$30.50
Merck & Co.	(2) Recombivax HB	00006-4969-00	5 x 0.5	0.5 ml	\$30.50
Merck & Co.	(3) Recombivax HB	00006-4773-00	3.0 ml	0.5 ml	\$74.56
Merck & Co.	(3) Recombivax HB	00006-4775-00	1.0 ml	1.0 ml	\$74.63
Merck & Co.	(3) Recombivax HB	00006-4872-00	10 x 1.0	1.0 ml	\$73.87
Merck & Co.	(3) Recombivax HB	00006-4873-00	10 x 3.0	0.5 ml	\$73.89
Merck & Co.	(3) Recombivax HB	00006-4848-00	5 x 1.0	1.0 ml	\$74.64
GlaxoSmithKline	(4) Engerix-B	58160-0856-01	0.5 ml	0.5 ml	\$26.52
GlaxoSmithKline	(4) Engerix-B	58160-0856-11	10 x 0.5	0.5 ml	\$26.52
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-46	5 x 0.5	0.5 ml	\$26.52
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-50	25 x 0.5	0.5 ml	\$26.52
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-46	5 x 0.5	0.5 ml	\$26.52
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-50	25 x 0.5	0.5 ml	\$26.52
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-50	25 x 0.5	0.5 ml	\$26.52

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose</i>
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-58	25 x 0.5	0.5 ml	\$26.52
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-57	25 x 0.5	0.5 ml	\$26.52
GlaxoSmithKline	(5) Engerix-B	58160-0857-01	1.0 ml	1.0 ml	\$62.20
GlaxoSmithKline	(5) Engerix-B	58160-0857-16	25 x 1.0	1.0 ml	\$60.63
GlaxoSmithKline	(5) Engerix-B syringe	58160-0857-46	5 x 1.0	1.0 ml	\$60.95
GlaxoSmithKline	(5) Engerix-B syringe	58160-0857-50	25 x 1.0	1.0 ml	\$60.95

(1) Pediatric low risk formulation @ 5 mcg/ml

(2) Adolescent/infant high risk formulation @ 10 mcg/ml

(3) Adult formulation @ 10 mcg/0.5 ml

(4) Pediatric formulation @ 10 mcg/0.5 ml

Adult formulation @ 20 mcg/ml

Hepatitis B/HIB:

Merck & Co.	COMVAX	0006-4898-00	10 x 0.5	0.5 ml	\$53.32
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Hepatitis A and Hepatitis B Vaccine:

GlaxoSmithKline	Twinrix	58160-0850-01	1.0 ml	1.0 ml	\$98.15
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GlaxoSmithKline	Twinrix	58160-0850-11	10 x 1.0	1.0 ml	\$96.58
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GlaxoSmithKline	Twinrix syringe	58160-0850-46	5 x 1.0	1.0 ml	\$96.90
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Influenza (split virus) Vaccine:

Evans	Fluvirin	19650-0103-10	5.0 ml	0.5 ml	\$4.49
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Evans	Fluvirin/syringe	19650-0103-01	10 x 0.5	0.5 ml	\$5.60
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Wyeth-Lederle	Flu-Shield	0008-0986-01	5.0 ml	0.5 ml	\$6.62
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Rabies Vaccine:

Aventis Pasteur	Imovax Rabies	49281-0250-10	1.0 ml	1.0 ml	\$155.91
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Pneumococcal Vaccine:

Wyeth-Lederle	Prevnar	0005-1970-67	5 x 0.5	0.5 ml	\$72.50
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Wyeth-Lederle	Pnu-Immune 23	0005-2309-31	5 x 0.5	0.5 ml	\$16.58
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Wyeth-Lederle	Pnu-Immune 23 syringe	0005-2309-33	5 x 0.5	0.5 ml	\$18.60
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Merck & Co.	Pneumovax 23	0006-4739-00	2.5 ml	0.5 ml	\$15.16
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Merck & Co.	Pneumovax 23	0006-4943-00	10 x 0.5	0.5 ml	\$17.01
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Merck & Co.	Pneumovax 23 syringe	0006-4894-00	5 x 0.5	0.5 ml	\$21.46
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Meningococcal Vaccine:

Aventis Pasteur	Menomune	49281-0489-05	5 x 0.5	0.5 ml	\$73.11
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Aventis Pasteur	Menomune	49281-0489-91	5.0 ml	0.5 ml	\$80.34
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Varicella Virus Vaccine Live (Chickenpox):

Merck & Co.	Varivax*	00006-4827-00	10 x 0.5	0.5 ml	\$64.42
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Merck & Co.	Varivax*	00006-4826-00	0.5 ml	0.5 ml	\$68.55
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\*Comes with a box of 10 vials of diluent (package B: 00006-4309-00)

Gamma Globulin/Immune Globulin (GG/IG):

Bayer	Gamimune N 10%	0026-0648-12	1 g	2.0 ml	\$90.00/g
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Bayer	Gamimune N 10%	0026-0648-15	2.5 g	2.0 ml	\$90.00/g
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Bayer	Gamimune N 10%	0026-0648-20	5 g	2.0 ml	\$90.00/g
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Bayer	Gamimune N 10%	0026-0648-71	10 g	2.0 ml	\$90.00/g
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Bayer	Gamimune N 10%	0026-0648-24	20 g	2.0 ml	\$90.00/g
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\*Dosage will vary depending upon the weight of the child and the disease for which the child is being immunized. 150 Pct

AWP/Dose is to be calculated based upon the dosage used.

Hepatitis B Immune Globulin (HBIG):

NABI	NABI-HB	59730-4402-01	1.0 ml	1.0 ml	\$175.00
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NABI	NABI-HB	59730-4403-01	5.0 ml	5.0 ml	\$140.00
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Varicella-Zoster Immune Globulin (VZIG):

Mass. PHBL	VZIG	52769-0574-66	625 u	250 u*	\$560.00
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\*Dosage will vary depending upon the weight of the child. If any portion of a vial is used to immunize a child, and the remainder cannot be used to immunize another individual, the entire vial shall be considered as part of the dosage used.

150 Pct LST/Dose is to be calculated based upon the dosage used.

\*\*LST (list price) is used instead of AWP. This product has no AWP. LST may fluctuate slightly, depending on where the product is purchased.

Rabies Immune Globulin (RIG):

Aventis Pasteur	Imogam Rabies-HT	49281-0190-10	10.0 ml	1.0ml*	\$79.83
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Aventis Pasteur	Imogam Rabies-HT	49281-0190-20	2 ml	1.0ml*	\$79.83
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\*Dosage will vary depending upon the weight of the child. Each 1.0 ml contains 150 IU units. If any portion of the vial is used to immunize a child, and the remainder cannot be used to immunize another individual, the entire vial shall be considered as part of the dosage used. 150 Pct AWP/Dose is to be calculated based upon the dosage used.

Tetanus Immune Globulin (TIG):

Bayer	Baytet syringe	00026-0634-02	250.0 unit/in	1.0 ml	\$120.00
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Persons with a disability who require an alternative format of this notice (for example, large print, audiotape or Braille), should contact Alice Gray, Director, Division of Immunization, Department of Health, P. O. Box 90, Harrisburg, PA 17108-0090, (717) 787-5681 or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-1897. Filed for public inspection October 25, 2002, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or any one of them, their firms or any firms, corporations or partnerships in which contractors have an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debar- ment</i>
Jamifer Corporation, t/a Quality Fence, Mary Kathryn Dineen, individually (Fed. ER ID No. 23-2705014) and James Dineen, individually	1620 Highway 315 Laflin, PA 18702 -and- 148 Noble Lane Plains Township, PA 18702 -and- 4 Land Creek Road Plains Township, PA 18702 -and- 950 Sathers Road Pittstown Township, PA 18640	10/10/02

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 02-1898. Filed for public inspection October 25, 2002, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding Montgomery County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to replace Bridge Road Bridge over Skippack Creek in Lower

Salford Township, Montgomery County, PA. The project is located on SR 1015, Bridge Road.

The project involves the replacement of the existing bridge which is a one span, Pratt pony truss bridge, erected in 1899. The truss is 22.6 meters (74.0 feet) long and 4.3 meters (14.2 feet) wide. The bridge is currently restricted to one lane of traffic and a weight restriction of 2.7 metric tons (3 tons). The proposed bridge is a one-span prestressed concrete box beam having a length of 24.4 meters (80 feet) and width of 9.1 meters (30 feet).

This project will use three Section 4(f) resources located within the limits of work of the project. They are: 1) Evansburg State Park, using a sliver parcel abutting the southbound lane of SR 1015 (Bridge Road) and containing approximately 0.081 hectare (0.20 acre); 2) Reiff Property, using a sliver on both sides of SR 1015, containing permanent acquisition of 0.15 hectare (0.37 acre) and temporary easement of 0.057 hectare (0.141 acre); and 3) Bridge Road Bridge, removing the existing bridge.

Impacts to the resources will be mitigated by:

1. Bridge Road Bridge involves the replacement of this historic bridge. A Memorandum of Agreement has been completed between the Federal Highway Administration and the Pennsylvania State Historic Preservation Office that includes the following:

A) Completion of a HABS/HAER recordation of the entire Bridge Road Bridge structure (historic resource).

B) Reuse of Bridge Road Bridge superstructure by the Department of Conservation and Natural Resources (DCNR), Bureau of State Parks for relocation within Evansburg State Park.

2. Evansburg State Park

A) Measures are focused on reducing the amount of right-of-way acquired.

B) DCNR will maintain control of the Parkland Area.

3. Reiff Property

A) Measures are focused on reducing the amount of right-of-way acquired to both sides of the road. Any minor shift of the existing alignment will increase the use of this resource.

B) Archival-quality photo documentation of this resource is to be completed.

4. Soil Erosion and Sedimentation Control Plan, approved by the Montgomery County Conservation District, will be implemented during and after construction.

The Secretary has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effect. No adverse environmental effect is likely to result from the construction of this project.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 02-1899. Filed for public inspection October 25, 2002, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### **Brandywine Conservancy v. DEP and Pennsylvania Suburban Water Company, Permittee; EHB Doc. No. 2002-225-MG**

Brandywine Conservancy has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Pennsylvania Suburban Water Company for a facility in Wallace Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 02-1900. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Rebecca Cesarz v. DEP and Pennsylvania Suburban Water Company, Permittee; EHB Doc. No. 2002-217-MG**

Rebecca Cesarz has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Pennsylvania Suburban Water Company for a facility in Wallace Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's

rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 02-1901. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Delaware Riverkeeper, Delaware Riverkeeper Network and American Littoral Society v. DEP and Pennsylvania Suburban Water Company, Permittee; EHB Doc. No. 2002-237-MG**

Delaware Riverkeeper, Delaware Riverkeeper Network and American Littoral Society have appealed the issuance by the Department of Environmental Protection of an NPDES permit to Pennsylvania Suburban Water Company for a facility in Wallace Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 02-1902. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Downingtown Municipal Water Authority v. DEP and Pennsylvania Suburban Water Company, Permittee; EHB Doc. No. 2002-240-MG**

Downingtown Municipal Water Authority has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Pennsylvania Suburban Water Company for a facility in Wallace Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 02-1903. Filed for public inspection October 25, 2002, 9:00 a.m.]

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**East Brandywine Township v. DEP and Pennsylvania Suburban Water Company, Permittee; EHB Doc. No. 2002-233-MG**

East Brandywine Township has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Pennsylvania Suburban Water Company for a facility in Wallace Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 02-1904. Filed for public inspection October 25, 2002, 9:00 a.m.]

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**Mayor Judy D. Reed v. DEP and West Penn Power Company, Permittee; EHB Doc. No. 2002-220-L**

Mayor Judy D. Reed has appealed the issuance by the Department of Environmental Protection of an NPDES permit to West Penn Power Company for a facility in City of Connellsville, Fayette County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code

§ 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 02-1905. Filed for public inspection October 25, 2002, 9:00 a.m.]

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**Sierra Club v. DEP and Pennsylvania Suburban Water Company, Permittee; EHB Doc. No. 2002-221-MG**

Sierra Club has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Pennsylvania Suburban Water Company for a facility in Wallace Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 02-1906. Filed for public inspection October 25, 2002, 9:00 a.m.]

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**Wallace Township v. DEP and Pennsylvania Suburban Water Company, Permittee; EHB Doc. No. 2002-229-MG**

Wallace Township has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Pennsylvania Suburban Water Company for a facility in Wallace Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 02-1907. Filed for public inspection October 25, 2002, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Walnut Creek Marina; Fee Increase

Under 58 Pa. Code § 53.12a(a)(1) (relating to access areas and marinas), the Fish and Boat Commission has increased the fee for seasonal slips at the Walnut Creek Marina, Erie County, from \$500 to \$575, effective January 1, 2003.

PETER A. COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 02-1908. Filed for public inspection October 25, 2002, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(d) of the Regulatory Review Act (Act) (71 P. S. § 745.5(d)) provides that the designated standing Committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the Committee comment period. The Commission's comments are based upon the criteria contained in section 5.1(h) and (i) of the Act (71 P. S. § 745.5a(h) and (i)).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
47-10	Milk Marketing Board Milk Marketing Fees	9/9/02	10/10/02

32 Pa.B. 3953 (August 10, 2002)

## Milk Marketing Board Regulation No. 47-10

### Milk Marketing Fees

October 10, 2002

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Milk Marketing Board (Board) must respond to these comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

#### 1. General.—Direct and indirect costs to the Commonwealth, political subdivisions and private sector; Need; Clarity.

##### *Fee Increases*

In the Preamble, the Board states that the current fees will produce a declining balance in the Milk Marketing Fund with an anticipated deficit in the 2005-2006 fiscal year. This rulemaking increases license and certification fees. It also increases the hundredweight fee for milk that has a fixed minimum wholesale price from \$.035 to \$.055 and increases the hundredweight fee for milk that does not have a fixed wholesale price from \$.005 to \$.0064. The Board projects that these increases will produce an additional \$590,000 per year. This would increase the Board's ending balance from \$1,354,000 for the 2003-2004 fiscal year to a balance of \$2,113,000 for the 2006-2007 fiscal year.

The Pennsylvania Association of Milk Dealers (PAMD) objected to the fee increases, in particular, the increase of the hundredweight fees. We also object to the proposed hundredweight fee increases. We believe the revenue generated by these increases is excessive. The Board has failed to explain the need for increasing the projected ending balance in the 2006-2007 fiscal year by \$759,000.

Additionally, the Board has failed to explain why fees should be increased in the 2003-2004 fiscal year when a deficit is not projected until the 2005-2006 fiscal year.

We recommend that the proposed hundredweight of milk fee increases be reduced by at least 1/2 of the planned increases. This will bring the Board's projected revenues more closely in line with their projected expenditures.

If after the reduced fees become effective the Board determines the reduced fee increases do not produce sufficient revenue to meet its funding requirements, a second rulemaking can be initiated at a later date. This will enable the Board to base a subsequent fee increase, if needed, on more recent revenue and expenditure data.

##### *Board forms*

Sections 150.13(a), (b) and (c), 150.23(a) and (b), 150.53(a) and 150.72(a) contain the phrase "form provided by the Board." The final-form regulation should designate the form name or form number required by each provision and list where the forms can be obtained.

Further, is it possible to get a form from the Board's website? If so, the Board should include this in the regulation.

## 2. Section 150.13. Time for payment of fees.— Clarity.

Subsection (b) states, "Fees exceeding \$2,000 may be paid in four substantially equal installments . . . ." The word "substantially" is vague and should be deleted in the final-form regulation.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 02-1909. Filed for public inspection October 25, 2002, 9:00 a.m.]

# INSURANCE DEPARTMENT

## Aetna US Healthcare; Rate Filing

On October 7, 2002, Aetna US Healthcare submitted a rate filing to apply deductibles and coinsurance provisions to HMO benefits. Deductibles up to \$2,500 per member and \$7,500 per family and coinsurance options up to 50% with out-of-pocket maximum of \$5,000 per member and \$15,000 per family are proposed. The effective date is January 1, 2003.

This filing is available for public inspection during normal working hours at the Insurance Department's regional offices in Harrisburg, Philadelphia and Erie, PA.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Actuary, Insurance Department, Bureau of Accident and Health Insurance, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 15 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1910. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Application and Request for a Certificate of Authority

Forestview Health Care Center, Inc. has applied for a Certificate of Authority to operate a continuing care retirement community at Forestview Health Care Center, Inc., Erie, PA. The initial filing was received on October 8, 2002, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Stephanie Ohnmacht, Insurance Company

Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, e-mail [sohnmacht@state.pa.us](mailto:sohnmacht@state.pa.us) or fax (717) 787-8557.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1911. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Application for Voluntary Surrender of Pennsylvania Certificate of Authority

QualMed Plans for Health of Western Pennsylvania, Inc., a domestic health maintenance organization, has submitted an application for approval to surrender its Pennsylvania Certificate of Authority. Persons wishing to comment on the grounds of public or private interest concerning the surrender are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the writer, identification of the application to which the comment is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Chief, Company Licensing Division, Room 1311, Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or e-mail [rbrackbill@state.pa.us](mailto:rbrackbill@state.pa.us).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1912. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Hard Copy Filings of Financial Statements Discontinued in Pennsylvania; Replaced by Affidavit of Filing and Financial Statement Attestation; Notice No. 2002-12

The Insurance Department (Department) announces that foreign and alien insurers licensed to transact business in this Commonwealth (insurers) are no longer required to file hard copies of financial statements and related filings with the Department. Beginning with the 2002 Annual Statement, insurers may file both of the following:

1. Entire financial statements and related filings with the National Association of Insurance Commissioners (NAIC) in electronic and other formats as may be required by the NAIC. However, as in the past, insurers are not required to make filings in electronic format with the Department.

2. Only the NAIC Affidavit of Filing and Financial Statement Attestation (Affidavit) in hard copy form with the Department.

The signature requirements for the Affidavit are the same as the requirements for financial statement jurat pages. Consistent with past instructions for financial statement filings with the Department, a photocopy of the original signed Affidavit is acceptable. A new Affidavit is required for any refiled or amended financial statements and related filings. The date an Affidavit is received by



the Department will be used to determine compliance with applicable statutory due dates and filing requirements. The filing fees for financial statements and related filings have not changed as a result of the elimination of the requirement to file hard copy financial statements with the Department. The Department will continue to bill insurers for filing fees and any penalties assessed for late filings.

Additional instructions for Affidavit filings will be included in the Department's financial statement filing instructions to be issued in December. All financial statement instructions and related information, including the Affidavit form, will be available on the Department's website at [www.insurance.state.pa.us](http://www.insurance.state.pa.us).

Questions concerning this notice may be directed to Kaushik K. Patel, Chief, Financial Analysis Division, Bureau of Company Licensing and Financial Analysis, Office of Regulation of Companies, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-5890, fax (717) 787-8557, e-mail [ra-in-analysis@state.pa.us](mailto:ra-in-analysis@state.pa.us).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1913. Filed for public inspection October 25, 2002, 9:00 a.m.]

## PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY

### Publication of Financial Statement

Under the section 207 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (Act of June 5, 1991) (P. L. 9, No. 6), the Pennsylvania Intergovernmental Cooperation Authority (Authority) is required to publish a concise financial statement annually in the *Pennsylvania Bulletin*. The Authority has issued its annual report for its fiscal year ended June 30, 2002, which includes an audit for this period performed in accordance with generally accepted auditing standards by an independent firm of certified public accountants. The complete annual report of the Authority may be obtained from the Authority at 1429 Walnut Street, 14th Floor, Philadelphia, PA 19102, (215) 561-9160.

JOSEPH C. VIGNOLA,  
*Executive Director*

### STATEMENT OF NET ASSETS JUNE 30, 2002

<b>ASSETS</b>	<b>Governmental Activities</b>
<b>CURRENT ASSETS:</b>	
Cash and short-term investments	\$51,630,766
PICA Taxes receivable	6,796,803
Accrued intertest receivable	589,502
Total current assets	59,017,071
LONG-TERM INVESTMENTS	121,030,421
OTHER ASSETS—	
Prepaid rent and security deposit	12,257

<b>ASSETS</b>	<b>Governmental Activities</b>
TOTAL	\$180,059,749
<b>LIABILITIES AND NET ASSETS</b>	
<b>CURRENT LIABILITIES</b>	
Accounts payable	\$ 106,612
Accrued payroll and taxes	289,979
Due to the City of Philadelphia	7,231,388
Deferred revenue	26,235,000
Bonds payable—current portion	36,620,000
Total current liabilities	70,482,979
<b>BONDS PAYABLE—</b>	
Long-term portion	804,055,000
Total liabilities	874,537,979
<b>NET ASSETS (DEFICIT):</b>	
Restricted for debt service	87,380,552
Restricted for benefit of the City of Philadelphia	54,589,741
Restricted for subsequent PICA administration	1,832,483
Unrestricted deficit	(838,281,006)
Total net assets	(694,478,230)
TOTAL	\$180,059,749

### STATEMENT OF ACTIVITIES YEAR ENDED JUNE 30, 2002

<b>EXPENSES:</b>	
Grants to the City of Philadelphia	\$201,528,938
General management and support—General operations	1,046,327
Interest expense on long term debt	46,123,475
Total program expenses	248,698,740
<b>PROGRAM REVENUES—</b>	
Interest	11,218,108
Program revenues	11,218,108
Net program expenses	237,480,632
<b>GENERAL REVENUES:</b>	
PICA Taxes	276,677,775
Interest	156,614
Total general revenues	276,834,389
INCREASE IN NET ASSETS	39,353,757
NET ASSETS (DEFICIT), BEGINNING OF YEAR	(733,831,987)
NET ASSETS (DEFICIT), END OF YEAR	\$(694,478,230)

[Pa.B. Doc. No. 02-1914. Filed for public inspection October 25, 2002, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzingrilli

*Application of Access Network Services, Inc. filed for Approval of the Abandonment or Discontinuance of Interexchange Carrier Services within the Commonwealth of Pennsylvania; Doc. No. A-310342F2000*

## Tentative Order

*By the Commission:*

On May 21, 2001, Access Network Services, Inc. (ANSI or Company) filed an Application for a Certificate of Public Convenience pursuant to section 1102(a)(2) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(2), evidencing Commission approval of the Discontinuance and Abandonment of services as an Interexchange Carrier to the Public in the Commonwealth of Pennsylvania.

ANSI is certificated to provide telecommunications services as an Interexchange Carrier within Pennsylvania, at Docket Nos. A-310342. ANSI was granted Certificates of Public Convenience on February 22, 1996. ANSI proposes to abandon its certificate of public convenience and necessity, and no longer offer interexchange reseller service in Pennsylvania. ANSI states that the Company has not been providing service pursuant to its certification since 1999 and now wishes to formally cancel its authority in Pennsylvania. ANSI has no customers. ANSI has no NXX codes.

No protests have been filed in response to the Application and no hearings have been held. In addition, no motions or petitions have been filed in this proceeding.

Upon full consideration of all matters of record pertaining to the Application, we tentatively find that approval of the Application would not be detrimental to the public interest; *Therefore,*

*It Is Ordered That:*

1. The Application of Access Network Services, Inc. is hereby tentatively approved as in the public interest.

2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comment or request oral hearing.

3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.

4. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, a Certificate of Public Convenience be issued pursuant to 66 Pa.C.S. § 1102(a)(2) authorizing the Discontinuance and Abandonment of Service by Access Network Services, Inc. as an Interexchange Reseller to the Public in the Commonwealth of Pennsylvania, as specified in the Applications.

5. A copy of this Tentative Order be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, the Department of Revenue and the Attorney General's Bureau of Consumer Protection.

6. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, the Secretary's Bureau is directed to remove Access Network Services, Inc.'s tariff and annual report from the shelf and delete the Company from the assessment files.

7. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, this case be marked closed.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1915. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzingrilli

*Application of Anderson Transfer, Inc., for the transfer of all of the operating right(s) of James M. Grogan t/d/b/a Waynesburg Moving and Storage Company, under the certificate issued at A-00107906, subject to the same limitations and conditions; Doc. No. A-00109593; F 1; Am-B*

Vuono & Gray, LLC by William A. Gray for the applicant

## Tentative Order

*By the Commission:*

This matter comes before the Commission on an application filed May 10, 2002. Public notice of the application was given in the *Pennsylvania Bulletin* of August 3, 2002. The unopposed application is certified to the Commission for its decision without oral hearing.

## Discussion and Findings

Anderson Transfer, Inc. (applicant, transferee or Anderson) is a currently certificated carrier holding household goods in use and property rights. It seeks to expand its territory by purchasing the household goods in use rights held by James M. Grogan t/d/b/a Waynesburg Moving and Storage Company. Applicant will conduct operations from its facilities located at 175 Plumpton Avenue, Suite 2, Washington, Washington County. Anderson will use its existing equipment and communications network to provide the additional service. A comprehensive safety and maintenance program is in effect.

The balance sheet of the transferee as of December 31, 2000, shows current and total assets of \$300,556.79, total current and total liabilities of \$200,836.54, resulting in a total owner's equity of \$99,720.25.

The total consideration for the right(s) and other intangible assets is \$8,000. The right(s) have been assigned a value of \$5,000.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor; therefore, it is presumed that there is a continuing need, which may be overcome only by evidence to the contrary. In re: *Byerly*, 440 Pa. 521 (1970); *Hostetter v. Pa. P.U.C.*, 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.

2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; *Therefore*,

*It Is Ordered*: That the transfer application be and is hereby tentatively approved granting the following right:

To transport, as a common carrier, household goods, in use:

(1) Between points in the borough of Waynesburg, Greene County, and within 5 miles by the usually traveled highways of the limits of the said borough.

(2) From points in the borough of Waynesburg, Greene County, and within 5 miles of the said borough, to points in Pennsylvania, and vice versa.

Subject to the following general conditions:

1. That the operating authority granted herein, or now held, or subsequently granted to the applicant to the extent that it is duplicative, shall not be construed as conferring more than one operating right.

2. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or right(s) to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

3. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any other entity, without the prior filing of an application and approval thereof by the Commission under section 1102(a)(3) of 66 Pa.C.S.

*It Is Further Ordered*: That the applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

1. A tariff establishing just and reasonable rates.

2. The transferor's assessment in the amount of \$115 for 2001 operating revenue.

*It Is Further Ordered*: That a copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comments or request oral hearing.

*It Is Further Ordered*: That absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication, the Tentative Order shall become final without further Commission action.

*It Is Further Ordered*: That upon the Tentative Order becoming final and upon compliance with the require-

ments herein before set forth, the certificate issued on April 22, 1991, as amended, shall be further amended to include right(s) granted.

*It Is Further Ordered*: That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

*It Is Further Ordered*: That in the event said applicant has not, on or before 60 days from the date that the Tentative Order becomes final, complied with the requirements herein before set forth, the application shall be dismissed without further proceedings.

*It Is Further Ordered*: That you must demonstrate safety fitness by completing a Safety Fitness Review. You will be contacted by the Commission's Bureau of Transportation and Safety, which will schedule a review to be completed within 180 days of the date your certificate is issued. Failure to submit to a Safety Fitness Review or to attain a satisfactory evaluation may result in cancellation of the certificate.

*It Is Further Ordered*: That upon compliance with this tentative order, the right(s) granted the transferor, James M. Gregan t/d/b/a Waynesburg Moving and Storage Company at A-00107906, be canceled and the record be marked "closed."

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1916. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present*: Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Application of Broadview NP Acquisition Corporation d/b/a Broadview Net Plus for approval to offer, render, furnish or supply telecommunication services as a Facilities-based Interexchange Carrier to the Public in the Commonwealth of Pennsylvania; Doc. No. A-311188*

*Application of Broadview NP Acquisition Corporation d/b/a Broadview Net Plus for approval to offer, render, furnish or supply telecommunication services as a reseller and facilities-based Competitive Local Exchange Carrier Services to the Public in the Commonwealth of Pennsylvania; Doc. No. A-311188F0002*

*Application of Broadview NP Acquisition Corporation d/b/a Broadview Net Plus for approval to offer, render, furnish or supply telecommunications services as a Competitive Access Provider in the Commonwealth of Pennsylvania; Doc. No. A-311188F0003*

### Tentative Order

*By the Commission*:

On April 14, 2002, Broadview NP Acquisition Corporation d/b/a Broadview Net Plus (Applicant) filed Applications seeking Certificates of Public Convenience pursuant to the Telecommunications Act of 1996, 47 U.S.C.A.

§§ 201, et seq. (TA-96)<sup>1</sup> and to Chapter 11 and 30 of the Public Utility Code (Code) (66 Pa.C.S. §§ 1101, et seq. and §§ 3001, et seq.) evidencing authority to provide the following telecommunication services to residential and business customers:

(1) As a Facilities-based Interexchange Carrier (IXC Carrier) throughout the Commonwealth of Pennsylvania.

(2) As a Reseller and Facilities-based Competitive Local Exchange Carrier (CLEC) services in the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc. and Sprint/United Telephone of Pennsylvania (the ILECs) within the Commonwealth of Pennsylvania.

(3) As a Competitive Access Provider (CAP) throughout the Commonwealth of Pennsylvania.

The Applicant complied with 52 Pa. Code § 5.14, relating to applications requiring notice. No protests were filed. No hearings were held.

The Applicant asserts that it will not be a rural telephone company. The Applicant served a copy of the Application upon the ILECs.

The Applicant is a Delaware corporation with its principal place of business at 59 Maiden Lane, 27th Floor, New York, NY 10038, (212) 400-1000 and fax (212) 400-1111.

The Applicant's registered office provider is CSC Corporation, 2704 Commerce Drive, Harrisburg, PA 17110. Correspondence to resolve complaints may be directed to Ana Bataille, Manager, Regulatory Affairs, 400 Horsham Road, Suite 130, Horsham, PA 19044. The Applicant will not be using a fictitious name.

The Applicant currently has an affiliate doing business in the Commonwealth of Pennsylvania. Broadview Networks, Inc. (Broadview), 45-18 Court Square, Suite 403, Long Island City, NY 11101, was granted certificates of public convenience to provide IXC Carrier, CLEC, and CAP services in Docket Nos. A-310932, A-310932F0002 and A-310932F0003 on October 25, 2000.

On April 11, 2002, the Applicant and Network Plus, Inc. filed a Joint Application at Docket Nos. A-311188F0004, C-20027825 and A-310097F2000 for approval of the transfer of the assets and customer base of Network Plus, Inc. and of the subsequent abandonment of service by Network Plus, Inc. This Joint Application was approved at Public Meeting held July 18, 2002, and orders the Applicant, inter alia, to adopt the tariffs of Network Plus, Inc. as its own.

The Applicant intends to provide the full range of facilities-based and resold exchange services to business and residential customers within the Commonwealth of Pennsylvania. These services may include, but will not necessarily be limited to: (1) local exchange access services to single-line and multi-line customers; (2) local exchange services to Applicant's end user access line services; and (3) dedicated and special carrier access services to other common carriers.

The Applicant intends to utilize the assets of the aforementioned Network Plus, Inc., which may include use of these switches, resale of service from other certificated carriers and/or use of Unbundled Network Elements UNEs from other certificated carriers, depending upon the most cost effective means to bring high quality service to the Applicant's customers.

<sup>1</sup>Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Implementation Order: June 3, 1996; and Implementation Reconsideration Order: September 9, 1996).

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.<sup>2</sup> A CLEC Applicant is expected to adhere to the requirements relative to universal service and lifeline programs, as initially set forth or as subsequently enlarged or modified.<sup>3</sup> Also, per Federal rules CLECs are required to ensure the efficient usage of their numbering resources and are required to semi-annually report their utilization and forecast data to the North American Numbering Plan Administrator. See 47 CFR 52.5 et. seq. Any CLEC failing to comply with state and/or Commission orders related to numbering may be subject to the reclamation of their numbering resources as well as fines pursuant to the Public Utility Code, 66 Pa.C.S. § 3301. See *Implementation of Numbering Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000—NXX Code Reclamation*, Docket No. M-00001373 (Order entered August 22, 2000), 30 Pa.B. 4701 (September 2, 2000). (Commission established process for reclaiming NXX codes from carriers who have failed to activate them within 6 months of their availability for assignment to customers.) Further, section 253(b) of the TA-96 permits a state Commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunication services and safeguard the rights of consumers. In response, we articulated explicit concerns relative to an Applicant's financial fitness, tariff compliance and rates.<sup>4</sup>

The Applicant has provided financial information to support its Applications. We, therefore, conclude that the Applicant has demonstrated that it is financially capable of providing telecommunication services as a CLEC, CAP and IXC Carrier.

We conclude that the Applicant has met the requirements for certification as an IXC Carrier, CLEC and CAP<sup>5</sup>, consistent with this Order. Premised upon our review of the Applications and the proposed tariffs, and consistent with our Orders, the Code, our Regulations and the TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability or privacy as contemplated by section 3009(b)(4) of the Code. We note, however deficiencies in the proposed tariffs. See Appendix A.

We shall direct the Applicant to revise the proposed tariffs in accordance with the changes noted in Appendix A of this Order.<sup>6</sup> The Applicant shall thereafter file its Initial Tariffs reflecting the requested changes on or before 60 days from the date of entry of this Order. Copies of the Initial Tariffs shall also be served upon the same entities receiving service of the original Applications, including the ILECs. If the time required for resolution and filing exceeds 60 days, the Applicant may request an extension of an additional 60 days with the Commission's Secretary. Thus, if the Initial Tariffs are not filed within 60 days (120 days including the extension) of

<sup>2</sup>See, e.g., *MFS, Intelnet, et al.*, Docket Nos. A-310203, F0002, et al., (October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578; *Pa. PUC v. GTE*, Docket No. R-0093666, *Global Order*, Docket Nos. P-00991648 and P-00991649, as well as other CLEC proceedings.

<sup>3</sup>*Universal Service Invest.*, Docket No. I-00940035 (January 28, 1997).

<sup>4</sup>*Blue Ribbon*, Docket No. A-310442 (April 25 and August 4, 1997).

<sup>5</sup>CAP authority may not be used to access the Public Switched Network or toll calling. If a utility with CAP authority wishes to provide access to the Public Switched Network or to provide local or IXC (intraLATA or interLATA) calling services to its customers, the utility must have been granted CLEC and/or IXC authority by the Commission.

<sup>6</sup>Michael Metcalf, (717) 783-6161, is the FUS contact. Regardless of the review process, any tariff provision inconsistent with the provisions of the Code, the TA-96 or our Regulations or Orders will be deemed inoperative and superseded (52 Pa. Code § 64.213).

the entry of this Order, the Applications will be dismissed and the authority granted herein will be revoked without further Commission Order. To the extent that the proposed tariffs contains rates, the Initial Tariffs may become effective on 1 day's notice from the date upon which they are filed and served.

#### *Conclusion*

Accordingly, we shall grant the Applications. The Applicant has had provisional authority under our Implementation Order (p. 7, para. B.1.c.4) and our Implementation Reconsideration Order (p. 5) to provide the proposed IXC carrier, CAP and CLEC services pursuant to its proposed tariffs during the pendency of the Application process. Upon the establishment of filed rates and the approval of the Initial Tariffs, a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide services as an IXC Carrier, a CLEC in the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc. and Sprint/United Telephone of Pennsylvania, and a CAP, consistent with this Tentative Order and our decisions in the *MFS* and other proceedings; *Therefore,*

#### *It Is Ordered That:*

1. The Application of Broadview NP Acquisition Corporation d/b/a Broadview Net Plus at Docket No. A-311188, for authority to operate as a Facilities-based Interexchange Carrier throughout the Commonwealth is hereby tentatively granted, consistent with this Tentative Order.

2. The Application of Broadview NP Acquisition Corporation d/b/a Broadview Net Plus at Docket No. A-311188F0002, for authority to operate as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc. and Sprint/United Telephone of Pennsylvania is hereby tentatively granted, consistent with this Tentative Order.

3. The Application of Broadview NP Acquisition Corporation d/b/a Broadview Net Plus at Docket No. A-311188F0003, for authority to operate as a Competitive Access Provider throughout the Commonwealth of Pennsylvania is hereby tentatively granted, consistent with this Tentative Order.

4. The Applicant comply with Ordering Paragraph No. 3 of our Order entered July 18, 2002, at Docket Nos. A-311188F0004, C-20027825 and A-310097F2000 directing the Applicant to adopt the tariffs of Network Plus, Inc.

5. The Applicant is directed to revise its proposed tariffs to reflect the changes noted in Appendix A of this Order.

6. The Applicant shall file its Initial Tariffs consistent with the requisite changes noted in Appendix A of this Order, within 60 days after the date of entry of this Tentative Order. The Applicant shall serve copies of its Initial Tariffs on each entity receiving a copy of the original Applications. To the extent the Proposed Tariffs contain rates, the Initial Tariffs may become effective on or after 1 day's notice from the date upon which they are filed and served. If the Proposed Tariffs did not contain rates, the Initial Tariffs may not become effective prior to 60 days' notice. The Initial Interexchange Tariff shall be labeled "Facilities-based Interexchange Reseller Toll Tariff." The Initial Competitive Local Exchange Carrier Tariff shall be labeled "Reseller and Facilities-based Competitive Local Exchange Carrier Tariff." The Initial Competitive Access Provider Tariff shall be labeled "Competitive Access Provider Tariff."

7. The Applicant shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations and Orders of the Pennsylvania Public Utility Commission, now in effect or as may be prescribed by the Pennsylvania Public Utility Commission, including but not limited to: the *MFS Intelenet, et al.*, Docket Nos. A-310203F0002, et al.; the *Universal Service Investigation*, Docket No. I-00940035; the *Global Order*, Docket No. P-00991648, et al.; and the *NXX Code Reclamation*, Docket No. M-00001373.

8. The authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.

9. The Applicant maintains separate accounting systems for each requested authority.

10. The Applicant shall file such affiliated interest agreements as may be necessary relative to any transactions with affiliates.

11. The Applicant contact each county or municipal authority where it intends to provide CLEC telecommunications service and make the necessary arrangements for the provisioning of Emergency 911 service.

12. The Applicant shall make 711 abbreviated dialing available to access Telecommunications Relay Service and to arrange its switching equipment to translate these calls to the assigned toll-free number, (888) 895-1197, to route calls to the Telecommunications Relay Service Provider, in accordance with Commission's Order entered on February 4, 2000, at Docket No. M-00900239.

13. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the 10 days from the date of publication to file written comment or request oral hearing.

14. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 13, this Tentative Order shall become final without further order of the Commission.

15. In the event that the Applicant has not, on or before 60 days (120 days including an approved extension) from the date of entry of this Tentative Order, complied with the requirements set forth herein, the Applications at Docket Nos. A-311188, A-311188F0002 and A-311188F0003 may be dismissed and the authority granted herein revoked without further Commission Order, consistent with Ordering Paragraph Nos. 13 and 14.

16. Upon the establishment of filed rates and the approval of the Initial Tariffs, and upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 14, a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as a Facilities-based Interexchange Toll Carrier within the Commonwealth of Pennsylvania, as a Competitive Access Provider within the Commonwealth of Pennsylvania and to furnish services as a Reseller and Facilities-based Competitive Local Exchange Services within the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc. and Sprint/United Telephone of Pennsylvania, consistent with this Tentative Order.

JAMES J. MCNULTY,  
*Secretary*

**Appendix A****Broadview NP Acquisition Corporation  
d/b/a Broadview Net Plus  
A-311188; A-311188F0002; A-311188F0003**

Broadview NP Acquisition Corporation d/b/a Broadview Net Plus (Applicant) has filed the following tariffs for providing telecommunication services in the Commonwealth of Pennsylvania:

- 1) Facilities-based Interexchange Carrier (Tariff No. 1)
- 2) Competitive Local Exchange Services (Tariff No. 2)
- 3) Competitive Access Provider (Tariff No. 3)

The Applicant has also requested approval through the Applications to provide Reseller of Toll Services in Pennsylvania. However, the Applicant did not file a separate tariff to reflect this service or a tariff to reflect Switched Access Services as a Facilities-based Competitive Local Exchange Carrier. It appears that the Applicant should file the following tariffs:

- 1) Switched Access Services (Tariff No. 4)
- 2) Reseller of Toll Services (Tariff No. 5)

In addition, the tariffs filed were found to contain certain deficiencies which are discussed below. The Applicant is requested to make the necessary changes as suggested with each of the deficiencies discussed here for the timely approval of the Tariffs.

**A-311188 (Facilities-based Interexchange  
Carrier—Tariff No. 1)**

1. Delete references to Resale Service on the title page.
2. Original Page 3—Explanation of Symbols—delete references to symbols M, N, R, and T. In addition, show D as a Decrease in rates.
3. File Tariff Telephone—Pa. P.U.C. No. 5 to provide Reseller of Toll Services. In addition, amend the Application to reflect the request to offer Reseller IXC services.
4. Billing Standards—the tariff should contain a general statement that “The Company complies with the requirements of Chapter 64 in Title 52 regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 regulations, the regulations in Chapter 64 will prevail”.
5. Original Page 15—Payments and Billing—reference to “North Office Building, Room B20” should be deleted and replaced with P. O. Box 3265. In addition, change the phone number to 1-800-782-1110.
6. If Original Page 23 was intentionally left blank, state that on the page.

**A-311188 (Competitive Local Exchange  
Services—Tariff No. 2)**

1. File Tariff Telephone—Pa. P.U.C. No. 4 to provide Switched Access Services.
2. Title Page—needs reference to the service territories of the ILECs, i.e. Verizon Pennsylvania, Inc., etc. in which service will be offered. Reference 52 § 53.21.
3. Provide detailed descriptions of all services offered by the carrier.
4. Original Pages 40 and 41—Cancellation by Company—these pages are missing from the tariff. Termination of service by the Company should conform to the guidelines in 52 § 64.71 and 52 § 64.121.

5. Billing Standards—the tariff should contain a general statement that “The Company complies with the requirements of Chapter 64 in Title 52 regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 regulations, the regulations in Chapter 64 will prevail”.

6. Original Page 38—Payments and Billing—reference to “North Office Building, Room B20” should be deleted and replaced with P. O. Box 3265. In addition, change the phone number to 1-800-782-1110.

7. Original Page 74—Link Up America—language must be changed to conform to the attached sample.

8. Original Page 75—Lifeline Service—language must be changed to conform to the attached sample.

9. Original Page 81—Pa. Telecommunications Relay Service—language must be changed to conform to the attached sample.

10. 911—Emergency Service—the tariff must include the 911 tariff language attached.

11. In lieu of exchange maps, provide reference to maps in ILEC tariffs by tariff and section number.

12. IntraLATA Presubscription Plan—carriers are required to provide its subscribers the ability to presubscribe to the carrier of their choice for both interLATA and intraLATA toll services in accordance with PUC Order at Docket No. I-00940034 using language in the attached PTA tariff.

13. Directory Assistance—the carrier must offer its residential customers two (2) free directory assistance calls per month.

14. Restriction of Service—it is the policy of the Commission that carriers do not restrict service to a certain class of customers. This means service must be offered to business as well as residential customers. If residential service is not offered, service should be made available to residential customers at business service rates.

15. Inconsistent Tariff—any tariff language that is inconsistent with any of the provisions of the 52 Pa. Code will be deemed inoperative and suspended. Reference 52 Pa. § 64.213

16. Provide reasons why the following pages are missing from the tariff: 28, 35, 43, 46, 47, 49, 52, 53, 54, 58, 59, 62, 64, 65, 67, 70, 71, 73, 76, 77, 80, 82, 83, 85, 94, 95, 99, 100, 103, 105, 106, 112, and 115.

**A-311188F0003 (Competitive Access Provider—  
Tariff No. 3)**

1. Billing Standards—the tariff should contain a general statement that “The Company complies with the requirements of Chapter 64 in Title 52 regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 regulations, the regulations in Chapter 64 will prevail.

2. Original Page 37—Payments and Billing—reference to “North Office Building, Room B20” should be deleted and replaced with P. O. Box 3265. In addition, change the phone number to 1-800-782-1110.

3. Original Page 59—Promotions—change ten (10) days notice to one (1) day notice.

4. Provide reasons why the following pages are missing from the tariff: 6, 9, 12, 14, 25, 33, 34, 36, 38, 42, 44, 46, 49, 51, and 58.

5. Original Page 41 and Original Page 42—Deposits-delete references to residential customers.

6. Original Page 57—Taxes and Surcharges-not applicable to a Competitive Access Provider.

7. Original Page 61 to Original Page 63—Exchanges-Competitive Access Provider authority is generally granted on a state-wide basis. Why are separate exchanges listed?

[Pa.B. Doc. No. 02-1917. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Application of Budget Phone, Inc. for approval to offer, render, furnish or supply interexchange telecommunications services as a reseller to the public in the Commonwealth of Pennsylvania; Doc. No. A-311159F0002*

### Tentative Order

*By the Commission:*

Budget Phone, Inc. (Applicant) filed the previously-captioned application on August 1, 2002, seeking a certificate of public convenience pursuant to Chapter 11 of the Public Utility Code, 66 Pa.C.S. §§ 1101, et seq., evidencing Commission approval to resell interexchange (IXC) telecommunications services to residential and business customers throughout Pennsylvania.

The Applicant complied with our regulations at 52 Pa. Code § 5.14, relating to applications requiring notice. No protests were filed and no hearings were held. Furthermore, no motions or petitions have been filed in the proceeding.

The Applicant is a foreign limited liability company with its principal place of business at 6901 W. 70th Street, Shreveport, LA 71129. The Applicant provided proof of compliance with 15 Pa.C.S. § 4124, relating to foreign corporations.

The Applicant proposes to operate as a reseller of IXC telecommunications services within the Commonwealth. Specifically, the Applicant proposes to operate as a reseller of toll services, including outbound 1+ and 101xxxx dialing, inbound "800" and "888" toll free, travel card and debit card services. And the Applicant has filed a proposed tariff that contains rates in compliance with our regulations at 52 Pa. Code § 63.114, relating to maximum rates for resellers of IXC telecommunications services.

Based upon our review of the subject Application and proposed tariff, it appears that the Applicant has met the requirements for certification as a reseller of IXC telecommunication services in the Commonwealth of Pennsylvania. Furthermore, the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability or privacy as contemplated by section 3009(b)(4) of the Public Utility Code, 66 Pa.C.S. § 3009(b)(4). For these reasons, we tentatively conclude that approval of the application is in the public interest. Therefore,

*It Is Ordered That:*

1. The Application of Budget Phone, Inc. for approval to resell interexchange telecommunications services to residential and business customers throughout Pennsylvania is hereby tentatively approved as in the public interest.

2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving all persons having an interest in this proceeding 10 days from the date of publication to file written comment or request oral hearing.

3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.

4. Budget Phone, Inc. shall file with the Secretary's Bureau, within 60 days from the date of this Order becomes final, an initial tariff consistent with that attached to this application; however, upon written request for good cause shown, the Secretary may grant an additional 60-day period in which to submit an initial tariff. A copy of the initial tariff should be served on each entity receiving a copy of the original Application. The initial tariff may become effective on one day's notice from the date upon which it is filed, and must reflect on its face that it is an "Interexchange Reseller Toll Tariff."

5. Upon approval of an initial tariff, a certificate of public convenience be issued authorizing Budget Phone, Inc. to furnish interexchange telecommunications services within the Commonwealth as an IXC reseller.

6. In the event the Applicant has not, on or before 60 days (or 120 days if the Applicant requests an extension) from the date this Order becomes final, complied with the requirements set forth herein, the instant Application will be deemed dismissed, without any further proceeding, and the authority granted herein be revoked without further Commission order.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1918. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Application of Glen & Gwen Transportation, Inc. t/d/b/a A. J. Taxi, for the transfer of all of the operating right(s) of Gerald E. Sands t/d/b/a Gerald E. Sands Bus Lines, under the certificate issued at A-00110392, F. 1, subject to the same limitations and conditions; Doc. No. A-00118924; F.2*

John R. Morgan by George P. Skumanick, Jr. for the applicant.

### Tentative Order

*By the Commission:*

This matter comes before the Commission on an application filed May 24, 2002. Public notice of the application

was given in the *Pennsylvania Bulletin* of August 3, 2002. The unopposed application is certified to the Commission for its decision without oral hearing.

#### *Discussion and Findings*

Glen & Gwen Transportation, Inc. t/d/b/a A. J. Taxi (applicant or Glen & Gwen) seeks to acquire all the paratransit right held by Gerald E. Sands t/d/b/a Gerald E. Sands Bus Lines. The owners of applicant, Glen D. Wilcox and Gwen E. Wilcox, have worked for the transferor for the past 4 years learning the business. Applicant will conduct operations from 296 SR 1002, Tunkhannock, Wyoming County. Communications will be by regular telephone service. Glen & Gwen will commence operations using four Chevrolet Lumina sedans. A comprehensive safety and maintenance program is in effect.

Glen & Gwen have also filed a transfer application to acquire the call or demand rights of transferor and that application is pending approved.

The balance sheet of applicant as of September 30, 2001, shows total current assets of \$4,360, total assets of \$79,360, total liabilities of \$74,801 and total stockholders' equity of \$4,559.

The total consideration for the right(s) and other assets, including real estate and equipment is \$25,000.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing need, which may be overcome only by evidence to the contrary. In re: *Byerly*, 440 Pa. 521 (1970); *Hostetter v. Pa. P.U.C.*, 160 Super. Ct. 94 (1947). Since the record is void of any evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.

2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; *Therefore*,

*It Is Ordered:* That the transfer application be and is hereby tentatively approved granting the following right(s):

To transport, as a common carrier, persons in paratransit service, from points in Wyoming County, to the Single Point of Contact Learning Center, located in Elk Lake, Dimock Township, Susquehanna County, and return.

Subject to the following general conditions:

1. That the operating authority granted herein, or now held, or subsequently granted to the applicant to the extent that it is duplicative, shall not be construed as conferring more than one operating right.

2. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or right(s) to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

3. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any other entity, without the prior filing of an application and approval thereof by the Commission under section 1102(a)(3) of 66 Pa.C.S.

*It Is Further Ordered:* That the applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

1. Form E, as evidence of Bodily Injury and Property Damage Liability Insurance.

2. A tariff establishing just and reasonable rates.

3. The transferors assessment in the amount of \$276 for 2001 operating revenue.

4. Proof of registration of fictitious name.

*It Is Further Ordered:* That a copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comments or request oral hearing.

*It Is Further Ordered:* That absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication, the Tentative Order shall become final without further Commission action.

*It Is Further Ordered:* That upon the Tentative Order becoming final and upon compliance with the requirements herein before set forth, a certificate shall issue evidencing the Commission's approval of the right to operate as above determined.

*It Is Further Ordered:* That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

*It Is Further Ordered:* That in the event said applicant has not, on or before 60 days from the date that the Tentative Order becomes final, complied with the requirements herein before set forth, the application shall be dismissed without further proceedings.

*It Is Further Ordered:* That upon compliance with this tentative order, the right(s) granted the transferor, Gerald E. Sands t/d/b/a Gerald E. Sands Bus Lines at A-00110392, F. 1, be canceled and the record be marked "closed."

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1919. Filed for public inspection October 25, 2002, 9:00 a.m.]

#### **Tentative Order**

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli



*Application of Heritage Hills Associates t/d/b/a Heritage Hills Golf Resort & Conference Center, a limited partnership of the Commonwealth of Pennsylvania, for the right to begin to transport, as a common carrier, by motor vehicle, persons in limousine service, from the facilities of Heritage Hills Golf Resort & Conference Center, located in the City of York, and the Townships of Springettesbury and York, York County, to points in Pennsylvania, and vice versa; Doc. No. A-00119000*

### **Tentative Order**

*By the Commission:*

This matter comes before the Commission on an application filed June 6, 2002. Public notice of the application was given in the *Pennsylvania Bulletin* of June 22, 2002. No protests were filed. The unopposed application is certified to the Commission for its decision without oral hearing.

#### *Discussion and Findings*

Heritage Hills Associates (applicant or Heritage Hills) is a limited partnership trading and doing business as Heritage Hills Golf Resort & Conference Center. Heritage Hills has been established for over 5 years as a 104 room resort with two restaurants, catering facility, mini golf, lighted driving range and an 18 hole golf course. Applicant wants to charge its customers for limousine service that either begins or ends at its facility. The limousine business will be located at 2700 Mt. Rose, Avenue, York, York County.

Communications will be by e-mail and a dedicated telephone line for reservations. Drivers will communicate by cell phone. Applicant will commence operations with a 2002 Lincoln sedan. A comprehensive safety and maintenance program will be implemented.

The applicant's balance sheet dated March 19, 2002, shows total current assets of \$717,851.92, total assets of \$6,589,907.37, total current and long term liabilities of \$6,558,647.22, for a total owners equity of \$31,260.15.

The application is supported by 11 businesses. Seven of the statements can be given little or no weight as it is impossible to determine if service will originate or terminate at the facilities of Heritage Hills Golf Resort & Conference Center, as required by the requested right.

The support of the following four parties is sufficient to grant the application so limited in scope. That support includes Frito Lay, Inc. for limousine transportation from its York facility to the Heritage Hills location and return; Giant Food Stores requires limousine transportation services from its stores located in York, Altoona, State College, Pottsville, Strasburg, Hazleton, Huntingdon and Indiana to Heritage Hills and vice versa; Brubaker Kitztons, Inc. of Lancaster requires limousine pickup from the Harrisburg International Airport and the Philadelphia International Airport to Heritage Hills and vice versa and Dentsply Professional of York requires limousine transport from the Harrisburg International Airport and the Philadelphia International Airport to Heritage Hills and from Heritage Hills to its facility in York.

After complete review of the record, we find:

1. Applicant seeks the initial right to provide limousine service and the application is unopposed.

2. Eleven businesses support the application; seven of the statements carry little or no weight; the other four statements are sufficient to support the application so limited in scope.

3. Applicant has the equipment, ability and fitness necessary to render the service.

4. The evidence of record is sufficient to establish necessity for the service.

5. Approval of the unopposed application is necessary for the accommodation and convenience of the public; Therefore,

*It is Ordered:* That the application be and is hereby tentatively approved granting the following right:

To transport, as a common carrier, persons in limousine service, from the facilities of Heritage Hills Golf Resort & Conference Center, located in the City of York, and the Townships of Springettesbury and York, York County, to points in Pennsylvania, and vice versa.

*It Is Further Ordered:* That the applicant shall not engage in any transportation authorized by this order until the following is submitted to the Commission:

1. Form E, as evidence of bodily injury and property damage liability insurance.

2. A tariff establishing just and reasonable rates.

*It Is Further Ordered:* That a copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comments or request oral hearing.

*It Is Further Ordered:* That absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication, the Tentative Order shall become final without further Commission action.

*It Is Further Ordered:* That upon the Tentative Order becoming final and upon compliance with the requirements herein before set forth, a certificate shall issue evidencing the Commission's approval of the right to operate as above determined.

*It Is Further Ordered:* That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

*It Is Further Ordered:* That in the event said applicant has not, on or before 60 days from the date that the Tentative Order becomes final, complied with the requirements herein before set forth, the application shall be dismissed without further proceedings.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1920. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Tentative Order**

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzingrilli

*Joint application of ITC\DeltaCom Communications, Inc. and its indirect parent, ITC\DeltaCom, Inc., for approval of a change in indirect control of the former; Doc. No. A-310467F0003*

### Tentative Order

*By the Commission:*

On August 7, 2002, ITC/DeltaCom Communications, Inc. (DeltaCom) and its ultimate parent, ITC/DeltaCom, Inc. (ITC Parent), filed the previously-captioned application pursuant to Chapter 11 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 1101—1103. Copies of the application were served upon the Office of Consumer Advocate and the Office of Small Business Advocate. Further notice was not required and no protest period was established. No protests or comments have been received. DeltaCom is a jurisdictional utility, having been certificated as an interexchange reseller (IXC) pursuant to our Order entered March 4, 1998, at A-310467. ITC Parent is not a jurisdictional entity.

DeltaCom is a direct subsidiary of Interstate FiberNet, Inc., which in turn is wholly-owned by ITC Parent. In June 2002, ITC Parent filed a voluntary petition in U. S. Bankruptcy Court for the District of Delaware and expects to receive final approval of a Plan of Reorganization in October 2002. Under the Plan of Reorganization, bondholders of ITC parent will receive newly issued stock in ITC parent and will thereupon hold a majority of the outstanding voting stock of the parent. The same bondholders-turned-stockholders are to elect four of the seven directors of the reorganized parent, and therefore control will have passed from existing shareholders to the current bondholders. It is this change in indirect control of DeltaCom for which the applicants now seek our approval.

The proposed change in control will not change the status of DeltaCom as a jurisdictional utility. DeltaCom will continue offer the same type of service under its currently effective tariff, and the change in control will be transparent to DeltaCom's customers. The joint applicants aver that the reorganization and associated conversion of debt to equity will strengthen the finances of ITC Parent and its subsidiaries, and thus improve the resources available to the utility, DeltaCom. The proposed transaction thus appears to meet the standard set by *City of York v. Pennsylvania Public Utility Commission*, 446 Pa. 136, 295 A.2d 825 (1972), that the change in control provide an affirmative public benefit.

Having reviewed the instant application, we have tentatively determined that the proposed transaction leading to the change in indirect majority control of DeltaCom is necessary or proper for the service, accommodation, convenience, or safety of the public, and that the application should be approved; *Therefore,*

*It Is Ordered That:*

1. The application concerning changes in indirect control of ITC/DeltaCom Communications, Inc. is hereby tentatively approved as in the public interest.
2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comment or request oral hearing.
3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.

4. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, the Secretary shall issue to ITC/DeltaCom Communications, Inc. a Certificate of Public Convenience consistent with Ordering Paragraph No. 1.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1921. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Application of Robert Link t/d/b/a B. & K. Moving for the transfer of all of the operating right(s) of Douglas Kriebel, t/d/b/a Duple & Kriebel, under the certificate issued at A-00103060, F. 1, subject to the same limitations and conditions; Doc. No. A-00119130*

### Tentative Order

*By the Commission:*

This matter comes before the Commission on an application filed July 1, 2002. Public notice of the application was given in the *Pennsylvania Bulletin* of August 3, 2002. The unopposed application is certified to the Commission for its decision without oral hearing.

#### *Discussion and Findings*

Robert Link (applicant, transferee or Link) is a sole proprietor trading and doing business as B. & K. Moving. Applicant seeks the initial right to operate as a common carrier transporting household goods in use and general property by acquiring the rights of transferor. Link will operate from facilities located at 1229 Ellston Road, Havertown, Delaware County. Communications will be regular telephone service. Applicant will acquire one or two straight trucks. A comprehensive maintenance and safety program will be implemented. Link has been involved in all phases of the household goods moving business for over 17 years.

The balance sheet of the applicant as of June 1, 2002, shows current and total assets of \$37,500, no liabilities for a net worth of \$37,500.

The total consideration for the right(s) is \$17,500.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing need, which may be overcome only by evidence to the contrary. In re: *Byerly*, 440 Pa. 521 (1970); *Hostetter v. Pa. P.U.C.*, 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.

2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; *Therefore,*

*It Is Ordered:* That the transfer application be and is hereby tentatively approved granting the following right(s):

To transport, as a common carrier:

(1) Household goods, in use, between points in the Counties of Philadelphia, Delaware, Chester, Montgomery and Bucks, included within a line which connects the municipal boundaries of Chester, West Chester, Paoli, Norristown, Doylestown and Morrisville, but not including said places.

(2) Household goods, in use, from points in the Counties of Philadelphia, Delaware, Chester, Montgomery and Bucks, included within a line which connects the municipal boundaries of Chester, West Chester, Paoli, Norristown, Doylestown and Morrisville, but not including said places, to other points in Pennsylvania, and vice versa.

(3) Property, excluding household goods in use, between points in Pennsylvania.

Subject to the following general conditions:

1. That the operating authority granted herein, or now held, or subsequently granted to the applicant to the extent that it is duplicative, shall not be construed as conferring more than one operating right.

2. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or right(s) to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

3. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any other entity, without the prior filing of an application and approval thereof by the Commission under section 1102(a)(3) of 66 Pa.C.S.

*It Is Further Ordered:* That the applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

1. Form E, as evidence of Bodily Injury and Property Damage Liability Insurance.

2. Form H, as evidence of cargo liability insurance.

3. A tariff establishing just and reasonable rates.

4. The transferor's assessment in the amount of \$438 for 2001 operating revenue.

*It Is Further Ordered:* That a copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comments or request oral hearing.

*It Is Further Ordered:* That absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication, the Tentative Order shall become final without further Commission action.

*It Is Further Ordered:* That upon the Tentative Order becoming final and upon compliance with the requirements herein before set forth, a certificate shall issue

evidencing the Commission's approval of the right to operate as above determined.

*It Is Further Ordered:* That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

*It Is Further Ordered:* That in the event said applicant has not, on or before 60 days from the date that the Tentative Order becomes final, complied with the requirements herein before set forth, the application shall be dismissed without further proceedings.

*It Is Further Ordered:* That you must demonstrate safety fitness by completing a Safety Fitness Review. You will be contacted by the Commission's Bureau of Transportation and Safety, which will schedule a review to be completed within 180 days of the date your certificate is issued. *Failure* to submit to a Safety Fitness Review or to attain a satisfactory evaluation may result in cancellation of the certificate.

*It Is Further Ordered:* That upon compliance with this order, the right(s) granted the transferor, Douglas Kriebel t/d/b/a Duble & Kriebel at A-00103060, F. 1, be canceled and the record be marked "closed."

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1922. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Tentative Order**

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Application of McNaughton Latrobe Moving, Inc. (applied as Mark S. Williams and has since incorporated) for the transfer of all of the operating right(s) of Latrobe Moving and Storage Company, under the certificate issued at A-00116154, F. 1, subject to the same limitations and conditions; Doc. No. A-00119133*

Vuono & Gray, LLC by William A. Gray for the applicant

### **Tentative Order**

*By the Commission:*

This matter comes before the Commission on an application filed May 6, 2002. Public notice of the application was given in the *Pennsylvania Bulletin* of August 3, 2002. The unopposed application is certified to the Commission for its decision without oral hearing.

### *Discussion and Findings*

Mark S. Williams originally applied as an individual. He incorporated under the name of McNaughton Latrobe Moving, Inc. Williams states there has been no change of ownership or control of the business and that he is the sole officer, director and shareholder of the corporation. Williams has requested that the authority to issue be in the corporate name so that double filings do not have to be made regarding insurance and tariff. Since there is no change of ownership or control, this request will be accommodated herein.

McNaughton Latrobe Moving, Inc. (applicant, transferee or McNaughton) seeks the initial right to operate as a common carrier by acquiring the business of Latrobe Moving and Storage Company. Applicant will operate from transferor's facility located at 40 West Monroe Street, Latrobe, Westmoreland County. Vehicles operated by McNaughton will be stored, dispatched and repaired at this facility. The facility consists of office space and warehouse space and there is parking space indoors for both of applicant's vehicles. Customer communications will be by regular telephone service; driver contact will be through the use of cell phones.

Applicant will commence operations utilizing a 1988 Ford 600 18' straight truck and a 1994 Ford 600 22' straight truck that it will purchase from the transferor. A comprehensive safety and maintenance program will be implemented. Applicant's experience is that he has been involved in the household goods transportation business for approximately 25 years and is presently employed by McNaughton Bros., Inc.

The balance sheet of the applicant as of April 28, 2002, shows total current assets of \$4,000, total assets of \$251,000, total liabilities of \$168,700 and a net worth of \$82,300.

The total consideration for the right(s) is \$5,000.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor; therefore, it is presumed that there is a continuing need, which may be overcome only by evidence to the contrary. In re: *Byerly*, 440 Pa. 521 (1970); *Hostetter v. Pa. P.U.C.*, 160 Super. Ct. 94 (1947). Since the record is void of any evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.

2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; *Therefore*,

*It Is Ordered:* That the transfer application be and is hereby tentatively approved granting the following right(s):

To transport, as a common carrier:

(1) Household goods, in use, between points in the Borough of Latrobe, Westmoreland County, and within 3 miles by the usually traveled highways of the limits of said borough;

(2) Household goods, in use, from points in the Borough of Latrobe, Westmoreland County, and within 3 miles by the usually traveled highways of the limits of said Borough, to other points within 15 miles by the usually traveled highways of the limits of said borough, and vice versa;

(3) Household goods, in use, between points in the Boroughs of Latrobe, Derry, Ligonier and Youngstown, and the Townships of Mt. Pleasant, Unity, Ligonier, Derry and Cook, Westmoreland County;

(4) Household goods, in use, from points in the Boroughs of Latrobe, Derry, Ligonier and Youngstown, and the Townships of Mt. Pleasant, Unity, Ligonier, Derry and Cook, Westmoreland County, to other points in Pennsylvania, and vice versa; and

(5) Property, excluding household goods in use, between points in Pennsylvania.

Subject to the following general conditions:

1. That the operating authority granted herein, or now held, or subsequently granted to the applicant to the extent that it is duplicative, shall not be construed as conferring more than one operating right.

2. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or right(s) to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

3. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any other entity, without the prior filing of an application and approval thereof by the Commission under section 1102(a)(3) of 66 Pa.C.S.

*It Is Further Ordered:* That the applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

1. Form E, as evidence of Bodily Injury and Property Damage Liability Insurance.

2. Form H, as evidence of cargo liability insurance.

3. A tariff establishing just and reasonable rates.

4. The transferor's assessment in the amount of \$214 for 2001 operating revenue.

*It Is Further Ordered:* That a copy of this Tentative order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comments or request oral hearing.

*It Is Further Ordered:* That absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication, the Tentative Order shall become final without further Commission action.

*It Is Further Ordered:* That upon the Tentative Order becoming final and upon compliance with the requirements herein before set forth, a certificate shall issue evidencing the Commission's approval of the right to operate as determined.

*It Is Further Ordered:* That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

*It Is Further Ordered:* That in the event said applicant has not, on or before 60 days from the date that the Tentative Order becomes final, complied with the requirements herein before set forth, the application shall be dismissed without further proceedings.

*It Is Further Ordered:* That you must demonstrate safety fitness by completing a Safety Fitness Review. You will be contacted by the Commission's Bureau of Transportation and Safety, which will schedule a review to be completed within 180 days of the date your certificate is issued. Failure to submit to a Safety Fitness Review or to attain a satisfactory evaluation may result in cancellation of the certificate.

*It Is Further Ordered:* That upon compliance with this tentative order, the right(s) granted the transferor,

Latrobe Moving and Storage Company at A-00116154, F. 1 be canceled and the record be marked "closed."

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 02-1923. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzingrilli

*Application of Pennsylvania Suburban Water Company for approval of: 1) the acquisition by Pennsylvania Suburban Water Company of water system assets of D.L.W.B. Water Systems, Inc.; 2) the right of Pennsylvania Suburban Water Company to offer, render, furnish or supply water service to the public in portions of Deer Lake Borough and West Brunswick Township, Schuylkill County, Pennsylvania; Doc. No. A-210104F0018*

### Tentative Order

*By the Commission:*

On June 19, 2002, pursuant to section 1102(a)(1)(i) of the Public Utility Code, Pennsylvania Suburban Water Company (Suburban), 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489, filed an Application for Commission approval of Suburban to acquire D.L.W.B. Water Systems, Inc.'s (DLWB) assets and to begin the right to offer, render, furnish or supply water service to the public in portions of Deer Lake Borough and West Brunswick Township in Schuylkill County, Pennsylvania as shown on a map filed with the Application.

No protests, motions or petition were filed. Proofs of service to the appropriate entities and publication were filed. No hearings were held.

Suburban is a jurisdictional public utility water company, duly organized and existing under the laws of the Commonwealth of Pennsylvania. Suburban presently provides service to more than 380,000 customers located in southeastern Pennsylvania, the Pocono Mountains, the Sharon area, the Sayre area, Forest County and the Shamokin area of Pennsylvania.

DLWB provides water service to approximately 30 residential homes in an area locally known as "The Pines." At full grow-out, The Pines will contain 97 homes. DLWB avers it does not want to enter the water business and wants to sell its water system. The Department of Environmental Protection reports that there are no outstanding complaints or actions against DLWB.

Suburban has entered into an Assets Purchase Agreement with DLWB and its parent, Pine Hollow Development Corporation, Inc. (Pine Hollow). Negotiations were conducted at arm's length and the agreed price will be \$150,000 for the current in-place assets. These assets include one well along with associated pumping/electrical equipment and building, two water storage tanks with a

total capacity of 136,000 gallons, mains, residential meters, valves and permits. Suburban will use a short term loan from their established \$70 million line of credit.

Furthermore, Suburban and Pine Hollow will enter into Suburban's standard Builder's Extension Agreement for the remaining 67 lots to be developed. The developer will lay the mains and contribute them to the utility. This agreement will activate upon closing of the previous transaction. Deer Lakes Municipal Authority provides wastewater service to the development.

DLWB has not charged rates to its 30 existing customers. Suburban proposes to adopt its Main System rates that are currently approved by the Commission. A typical customer, using 60,000 gallons per year, will experience an annual cost of \$526.20.

Upon full consideration of all matters of record, we find that approval of this Application is necessary and proper for the service, accommodation and convenience of the public. For these reasons, we tentatively conclude that approval of the application is in the public interest; Therefore,

*It Is Ordered That:*

1. The Application of Pennsylvania Suburban Water Company (Suburban) at Docket No. A-210104F0018 is hereby tentatively approved as in the public interest.

2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comment or request oral hearing.

3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.

4. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, the Secretary shall issue to Pennsylvania Suburban Water Company a Certificate of Public Convenience pursuant to section 1102(a)(1)(i) of the Public Utility Code authorizing Suburban to begin to offer, render, furnish or supply water service to the public in portions of Deer Lake Borough and West Brunswick Township, Schuylkill County, Pennsylvania.

5. Suburban shall file a tariff supplement within 30 days of closing reflecting this transaction and shall provide verification of said closing to the Commission.

6. Nothing herein shall be construed to exempt Suburban from obtaining all necessary permits and approvals from other State, Federal and local government agencies having jurisdiction.

7. A copy of this Tentative Order shall be served on the Department of Environmental Protection, Northeast Regional Office and the Commission's Office of Trial Staff.

8. Suburban provide the Bureau of Fixed Utility Services and the Bureau of Audits of this Commission with an original cost study, reflecting contribution-in-aid-of-construction, prior to the filing of its next general rate proceeding.

9. Upon verification of closing, the Secretary shall mark the record closed.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 02-1924. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Tentative Order**

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Application of Pennsylvania Suburban Water Company for approval to begin to offer, render, furnish or supply water service to the public in portions of Centre and Bern Townships, Berks County, Pennsylvania; Doc. No. A-210104F0014*

### **Tentative Order**

*By the Commission:*

On March 7, 2002, pursuant to section 1102(a)(1)(i) of the Public Utility Code, Pennsylvania Suburban Water Company (Suburban), 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489, filed an Application for Commission approval of Suburban to begin to offer, render, furnish or supply water service to the public in portions of Centre and Bern Townships in Berks County, Pennsylvania as shown on a map filed with the Application.

No protests, motions or petition were filed. Proofs of service to the appropriate entities and publication were filed. No hearings were held.

Suburban is a jurisdictional public utility water company, duly organized and existing under the laws of the Commonwealth of Pennsylvania. Suburban presently provides service to more than 380,000 customers located in southeastern Pennsylvania, the Pocono Mountains, the Sharon area, the Sayre area, Forest County and the Shamokin area of Pennsylvania.

Suburban has entered into a letter agreement (Agreement) with Greth Development Group, Inc. (Greth), a Pennsylvania corporation that specializes in residential development. The Agreement was executed on March 12, 2002. Greth is developing a 97-acre tract, locally to be known as Hill Crest Estates II, in Centre and Bern Townships. Greth plans to erect 65 single family homes and has requested Suburban to provide water service. This will be a satellite water system.

The Agreement calls for Suburban to develop an appropriate well, storage and treatment facilities and obtain necessary regulatory approvals. Greth will install mains, valves, services and fittings to Suburban's approval. Greth will contribute this distribution system to Suburban. Under terms of the Agreement, Greth will provide an original cost report, by line item, of the distribution

system within 30 days of completing said installation to Suburban. Suburban will install individual meters. Cost estimates for the entire system are \$150,000 and \$155,000, respectively, for Suburban and Greth. Greth will design, permit, construct, operate and maintain a wastewater collection and treatment system. At this point, it should be emphasized that Greth is precluded from providing wastewater service to the public for compensation without first obtaining a certificate of public convenience from the Commission.

Suburban proposes to adopt its Main System rates that are currently approved by the Commission. A typical customer, using 60,000 gallons per year, will experience an annual cost of \$526.20.

Upon full consideration of all matters of record, we find that approval of this Application is necessary and proper for the service, accommodation, and convenience of the public. For these reasons, we tentatively conclude that approval of the application is in the public interest; *Therefore,*

*It Is Ordered That:*

1. The Application of Pennsylvania Suburban Water Company (Suburban) at Docket No. A-210104F0014 is hereby tentatively approved as in the public interest.

2. A copy of this Tentative Order shall be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comment or request oral hearing.

3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.

4. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, the Secretary shall issue to the Pennsylvania Suburban Water Company a Certificate of Public Convenience pursuant to section 1102(a)(1)(i) of the Public Utility Code authorizing Suburban to begin to offer, render, furnish or supply water service to the public in portions of Centre and Bern Townships, Berks County, Pennsylvania.

5. Suburban shall file a tariff supplement within 30 days after the Certificate of Public Convenience is issued.

6. Suburban, upon acceptance of the original cost report, shall submit the report to the Bureau of Fixed Utility Services, Bureau of Audits and Office of Trial Staff.

7. A copy of this Tentative Order shall be served on the Department of Environmental Protection, Southcentral Regional Office, the Commission's Office of Trial Staff and Greth Development Group, Inc.

8. Upon completion of Paragraph No. 6, the Secretary shall mark the record closed.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 02-1925. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Joint Application of Pennsylvania Suburban Water Company and White Rock Water Corporation for approval of:* 1) the acquisition by Pennsylvania Suburban Water Company of water system assets of White Rock Water Corporation; 2) the right of Pennsylvania Suburban Water Company to offer, render, furnish or supply water service to the public in portions of Monroe and South Middleton Townships, Cumberland County, Pennsylvania; 3) the right of White Rock Water Company to abandon water service; and 4) the right of Pennsylvania Suburban Water Company to abandon water service in South Middleton Township; Doc. Nos. A-210104F0019; A-213440F2000; A-210104F2002

### Tentative Order

*By the Commission:*

On June 24, 2002, pursuant to section 1102(a)(1)(i) of the Public Utility Code, Pennsylvania Suburban Water Company (Suburban), 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489 and White Rock Water Corporation (White Rock), 1369 Swope Drive, Boiling Springs, PA 17007, filed an Application for Commission approval of Suburban to acquire White Rock's assets and to begin the right to offer, render, furnish or supply water service to the public in portions of Monroe and South Middleton Townships in Cumberland County, Pennsylvania as shown on a map filed with the Application (A-210104F0019). Pursuant to section 1102(a)(2), White Rock seeks Commission approval to abandon water service in aforementioned townships (A-213440F2000). At the request of South Middleton Township and South Middleton Township Municipal Authority, Suburban seeks Commission approval of Suburban's partial abandonment of its rights in South Middleton Township (A-210104F2002).

No protests, motions or petition were filed. Proofs of service to the appropriate entities and publication were filed. No hearings were held.

Suburban is a jurisdictional public utility water company, duly organized and existing under the laws of the Commonwealth of Pennsylvania. Suburban presently provides service to more than 380,000 customers located in southeastern Pennsylvania, the Pocono Mountains, the Sharon area, the Sayre area, Forest County and the Shamokin area of Pennsylvania.

White Rock provides water service to approximately 275 residential homes in an area locally known as "White Rock Acres," Monroe Township, Cumberland County. At full grow-out, White Rock Acres will contain 380 homes. White Rock desires to leave the water business and to sell its water system. The Department of Environmental Protection reports that there are no outstanding complaints or actions against White Rock.

Suburban has entered into an Assets Purchase Agreement with White Rock and its subsidiary, Penn Products Corporation. Negotiations were conducted at arm's length and the agreed price will be \$400,000 for the current in-place assets. These assets include three wells along with four pump stations, three water storage tanks with a total capacity of 30,000 gallons, mains, residential

meters, valves, permits, etc. Suburban will use existing funds to pay for White Rock. Under a separate transaction, Suburban will acquire a site for the installation of another well and construct a future storage tank.

At the request of South Middleton Township and South Middleton Municipal Authority, Suburban will abandon water service rights in that township. There are no current customers in South Middleton Township. All of White Rock's assets are located in Monroe Township.

Suburban proposes to adopt White Rock's current rates on file with the Commission. A typical customer, using 60,000 gallons per year, will experience an annual cost of \$434.

Upon full consideration of all matters of record, we find that approval of these Applications is necessary and proper for the service, accommodation, and convenience of the public. For these reasons, we tentatively conclude that approval of these applications is in the public interest; *Therefore,*

*It Is Ordered That:*

1. The Joint Application of Pennsylvania Suburban Water Company (Suburban) and White Rock Water Corporation (White Rock) is hereby tentatively approved (A-210104F0019), the abandonment of water service by White Rock (A-213440F2000) is hereby tentatively approved and the partial abandonment by Suburban in South Middleton Township is hereby tentatively approved (A-210104F2002).

2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comment or request oral hearing.

3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.

4. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, the Secretary shall issue a Certificate of Public Convenience (CPC) pursuant to section 1102(a)(1)(i) of the Public Utility Code authorizing Suburban to begin to offer, render, furnish or supply water service to the public in portions of Monroe and South Middleton Township, Cumberland County, Pennsylvania.

5. Suburban shall file a tariff supplement within 30 days of closing reflecting this transaction and provide verification of said closing to the Commission.

6. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, a CPC be issued to White Rock approving its abandonment of water service to the public (A-213440F2000).

7. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, a CPC be issued to Suburban approving its partial abandonment of water service in South Middleton Township, Cumberland County (A-210104F2002).

8. Suburban file a tariff supplement reflecting this partial abandonment after the CPC is issued.

9. A copy of this Tentative Order shall be served on the Department of Environmental Protection, Southeast Regional Office, the Department of Revenue, Bureau of Corporate Taxes and the Commission's Office of Trial Staff.

10. Suburban provide the Bureau of Fixed Utility Services and the Bureau of Audits of this Commission with an original cost study, reflecting contribution-in-aid-of-construction, prior to the filing of its next general rate proceeding.

11. White Rock be deleted from the active utility lists of the Tariff and Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services after the CPC is issued.

12. Upon verification of closing, the Secretary shall mark all records closed.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 02-1926. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Tentative Order**

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Application of Quintelco Inc. filed for Approval of Abandonment or Discontinuance of Interexchange Reseller Services within Pennsylvania; Doc. No. A-310582F2000*

### **Tentative Order**

*By the Commission:*

On July 17, 2002, Quintelco, Inc. filed an Application for a Certificate of Public Convenience pursuant to section 1102(a)(2) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(2), evidencing Commission approval to discontinue and abandon service as an Interexchange Reseller to the Public in the Commonwealth of Pennsylvania.

Quintelco, Inc. is currently certificated to provide telecommunications services as an Interexchange Reseller within Pennsylvania, at Docket No. A-310582. Quintelco's certificate was granted on November 21, 1997. Quintelco proposes to abandon its Certificate of Public Convenience and no longer offer Interexchange Reseller Services in Pennsylvania. Quintelco states that it has not commenced provision of Interexchange Reseller Services in the Commonwealth of Pennsylvania and consequently has no customers.

No protests have been filed since the Application was filed and no hearings were held. In addition, no motion or petition has been filed in this proceeding. Finally, we note that there are no NXX codes affected by this Application for Abandonment.

Upon full consideration of all matters of record pertaining to the Application, we tentatively find that approval of the Application would not be detrimental to the public interest; *Therefore,*

*It Is Ordered That:*

1. The Application of Quintelco, Inc. is hereby tentatively approved as in the public interest.

2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving all persons having an interest in this proceeding 10 days from the date of publication to file written comment or request oral hearing.

3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.

4. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, a Certificate of Public Convenience be issued pursuant to 66 Pa.C.S. § 1102(a)(2) authorizing the discontinuance and abandonment of service by Quintelco, Inc. as an Interexchange Carrier on a Reseller basis to the Public in the Commonwealth of Pennsylvania as specified in the Application.

5. A copy of this Tentative Order be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff and the Attorney General's Bureau of Consumer Protection.

6. A copy of this Tentative Order be served on the Department of Revenue, Bureau of Corporation Tax.

7. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, the Secretary's Bureau is directed to remove Quintelco, Inc.'s tariff and annual report from the shelf and delete the Company from the assessment files.

8. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, this case be marked closed.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 02-1927. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Tentative Order**

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzigrilli

*Application of Kenneth Songer d/b/a Corsica Gas Company for approval of a Certificate of Public Convenience to Supply Natural Gas Service to the Public in Union and Eldred Townships, Jefferson County, Pennsylvania; Doc. No. A-125115*

### **Tentative Order**

*By the Commission:*

On May 31, 2002, Kenneth Songer d/b/a Corsica Gas Company (Company or Applicant) filed an application for approval of a certificate of public convenience to provide natural gas service to the public in Union and Eldred Townships, Jefferson County, PA. In addition, the Applicant has filed a petition to waive the filing fee as the Applicant generates limited revenues and paying the filing fee would create a financial hardship.

The Company has been operating as a defacto public utility, providing service for approximately 20 years and currently provides service to 33 customers. The Company indicates it has and will continue to charge \$9 per mcf.

No corporation, partnership or individual is now furnishing or has corporate or franchise rights to furnish service similar to that of the proposed public utility in the



territory of the proposed public utility and no competitive conditions will be created. National Fuel Gas and T.W. Phillips Company have facilities near the service area but both companies have declined to provide service to the service area.

Approval of the application is necessary since the service area is relatively isolated and includes a limited number of customers. Two major gas utilities were approached by the Applicant regarding their interest in supplying service to the area, but both declined. Unless served by the Applicant, the customers and prospective customers in the area will have no source of natural gas service. Alternative fuels are more expensive and less convenient to the users. In addition, we believe that the Applicant has demonstrated financial hardship and therefore we shall grant Applicant's petition to waive the standard \$350 filing fee.

Upon full consideration of all matters of record, we agree that approval of the application is necessary and proper for the service, accommodation and convenience of the public. For these reasons we tentatively conclude that approval of the application is in the public interest; Therefore,

*It Is Ordered That:*

1. The application of Kenneth Songer d/b/a Corsica Gas Company is hereby tentatively approved.

2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comment or request oral hearing.

3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.

4. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, a Certificate of Public Convenience be issued pursuant to section 1101 of the Public Utility Code, 66 Pa.C.S. § 1101 authorizing Kenneth Songer d/b/a Corsica Gas Company to supply natural gas service to the public in Union and Eldred Townships, Jefferson County, PA.

5. The normal \$350 filing fee is waived.

6. Kenneth Songer d/b/a Corsica Gas Company shall file, within 15 days after the Certificate of Public Convenience is issued, a tariff reflecting the current rates, rules and regulations, effective on 5 days notice.

7. Kenneth Songer d/b/a Corsica Gas Company be added to the active lists of the Tariff and Annual Reports Section of the Bureau of Fixed Utility Services and the Assessments Section of the Commission's Office of Administrative Services.

8. A copy of this Tentative Order be served upon the Department of Revenue, Bureau of Corporate Taxes.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1928. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzingrilli

*Application of Suburban Emergency Medical Services, a corporation of the Commonwealth of Pennsylvania, for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, between points in the Counties of Lehigh, Northampton and Monroe, and from points in said counties, to points in Pennsylvania and return; subject to the following condition: that transportation is limited to persons that require medical monitoring; Doc. No. A-00118866*

Page, Wolfberg & Wirth, LLC by Christina M. Mellott for the applicant

## Tentative Order

*By the Commission:*

This matter comes before the Commission on an application filed March 25, 2002. Public notice of the application was given in the *Pennsylvania Bulletin* of May 11, 2002. No protests were filed. The unopposed application is certified to the Commission for its decision without oral hearing.

### *Discussion and Findings*

Suburban Emergency Medical Services (applicant or Suburban) seeks the initial right to provide paratransit service. It currently provides exempt ambulance transportation service and has done so for over 50 years, generally, in the area of application. Applicant conducts operations from terminal facilities located at 3231 Freemansburg Avenue, Palmer, Northampton County. The facility includes a six bay garage, parking lot, administrative offices and dispatch office. Communications are by six regular telephone lines and drivers are dispatched by cellular phone and radio. Suburban will utilize three Ford/E350 wheelchair vans, model years 1995, 1992 and 1999. A comprehensive safety and maintenance program is in effect.

The applicant's balance sheet dated June 30, 2002, shows total current assets of \$502,991, total assets of \$1,964,018, total current and long term liabilities of \$134,420, for a total owner's equity of \$1,829,598.

Support for the service comes from four nursing homes/nursing centers and three hospitals. The nursing homes and nursing centers are Blough Nursing Center, Bethlehem, Northampton County; Manor Care Old Orchard, Easton, Northampton County; Manor Care Health Services, Easton, Northampton County; and Brookmont Health Care Center, Inc., Effort, Monroe County. The hospitals include Muhlenberg Hospital, Bethlehem, Lehigh County; Lehigh Valley Hospital, Allentown, Lehigh County; and Easton Hospital, Easton, Northampton County. All supporters require service for persons requiring medical treatment at various facilities, and return.

After complete review of the record, we find:

1. Applicant seeks the initial right to provide paratransit service and no protests were filed.

2. Applicant currently provides exempt medical ambulance service.

3. A total of seven nursing homes and nursing centers and hospitals support the service.

4. Applicant has the equipment, ability and fitness necessary to render the service.

5. The evidence of record is sufficient to establish necessity for the service.

6. Approval of the unopposed application is necessary for the accommodation and convenience of the public; *Therefore,*

*It Is Ordered:* That the application be and is hereby tentatively approved granting the following right:

To transport, as a common carrier, persons in paratransit service, between points in the Counties of Lehigh, Northampton and Monroe, and from points in said counties, to points in Pennsylvania and return; subject to the following condition:

That transportation is limited to persons that require medical monitoring.

*It Is Further Ordered:* That the applicant shall not engage in any transportation authorized by this order until the following is submitted to the Commission:

1. Form E, as evidence of bodily injury and property damage liability insurance.

2. A tariff establishing just and reasonable rates.

*It Is Further Ordered:* That a copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comments or request oral hearing.

*It Is Further Ordered:* That absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication, the Tentative Order shall become final without further Commission action.

*It Is Further Ordered:* That upon the Tentative Order becoming final and upon compliance with the requirements herein before set forth, a certificate shall issue evidencing the Commission's approval of the right to operate as previously determined.

*It Is Further Ordered:* That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

*It Is Further Ordered:* That in the event said applicant has not, on or before 60 days from the date that the Tentative Order becomes final, complied with the requirements herein before set forth, the application shall be dismissed without further proceedings.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1929. Filed for public inspection October 25, 2002, 9:00 a.m.]

## Tentative Order

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzingrilli

*Application of Tri-Valley Water Supply, Inc. for approval of the transfer of control of the utility from the present majority owners to their son; Doc. No. A-211890F5000*

## Tentative Order

*By the Commission:*

On March 29, 2002, Tri-Valley Water Supply, Inc. (Tri-Valley) filed the previously-captioned application pursuant to Chapter 11 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 1101—1103. Tri-Valley filed along with this application, under Chapter 19 of the Code, 66 Pa.C.S. § 1901, a securities certificate separately docketed at S-00020899. Copies of the filings were served upon the Office of Consumer Advocate and the Office of Small Business Advocate. Notice was published in the *Pennsylvania Bulletin* and in two newspapers of general circulation, and the protest period ended June 3, 2002, with no protests or other comments having been received. On August 27, 2002, Tri-Valley filed an amendment to the joint filing. We have since bifurcated these filings for separate disposition inasmuch as the amended securities certificate has no direct relevance to the instant application.

Tri-Valley operates three water distribution systems in northeastern Pennsylvania. Operations in the Cypress Park Subdivision and in the Stone Ridge Manor Subdivision are in Carbon County. Those in the El-Do Lake Subdivision are in Monroe County. Each system is operated as a division of Tri-Valley, and each is physically separate. The service in the El-Do Lake division is governed by a separate tariff.

Via the instant application, Tri-Valley has proposed a transfer of control of the utility. The Company is currently owned by Anthony H. and Lucille P. Sander and their son, Gregory Sander. The parents together have a controlling equity and voting interest, owning 1,900 shares each out of 4,000 shares outstanding. Gregory Sander owns the remaining 200 shares. All three members of the Sander family currently participate in the management and operation of the utility, and the elder Sanders both wish now to retire from the utility and to sell all their stock in Tri-Valley. The Sanders and Tri-Valley had entered into an Agreement for Sale of Stock pursuant to which Tri-Valley would buy back the shares of Mr. and Mrs. Sander and hold the shares as treasury stock. A repurchase by the utility would leave Gregory Sander as owner of 100% of the new total of 200 shares outstanding, and he would thereby have absolute control of the utility.

In the amended application, Tri-Valley now seeks the approval of the Commission for transfer of control of Tri-Valley to Gregory Sander through his direct acquisition of the 1,900 shares of stock owned by Anthony H. Sander and the 1,900 shares of stock owned by Lucille P. Sander. Commission approval of the transaction is still required by section 1102(a)(3) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(3), and 52 Pa. Code § 69.901. The acquisition of his parent's stock will, however, no longer

be financed by debt of the utility, and the amended securities certificate now deals only with the refinancing of existing debt.

The purchase price of the stock is to be \$225,000, financed by a loan directly to Gregory Sander, the terms of which are not of regulatory significance to the Commission. Upon approval of the instant application, Gregory Sander will become owner of 100% of the 4,000 shares outstanding, and he will thereby have absolute control of the utility.

We turn now to another matter that has arisen during Commission analysis of the instant filings, but which is altogether separate from Tri-Valley's application and securities registration filing. In its annual reports filed for the calendar years 1998, 1999 and 2000, Tri-Valley seems to have reported financial data that, for most categories, is identical to the data reported in its 1997 report.

Utilities are also required to report their revenues from water sales to the Commission annually, to be employed in the allocation of assessments among Pennsylvania utilities. For these separate reports, Tri-Valley did show generally increasing operating revenues, but revenues that were lower than similar revenues reported in the annual reports.

Staff sent a request for additional data in connection with the instant filing in which it asked for a list of various classes of revenues for 1995 to 2000. Tri-Valley's responses to the request provided yet a different set of revenues. Additionally, the Company has not yet filed its annual report for the year 2001. We take these matters seriously, and fully expect Tri-Valley to provide the Commission with accurate information in a timely manner.

Having reviewed this filing of Tri-Valley, we have tentatively determined that Tri-Valley has shown that Gregory Sander possesses the requisite operational fitness to provide a seamless transition of ownership while allowing the elder Sanders to relinquish the responsibilities of management as they desire. The proposed transaction thus appears to meet the standard set by *City of York v. Pennsylvania Public Utility Commission*, 446 Pa. 136, 295 A.2d 825 (1972), that the change in control provide an affirmative public benefit; *Therefore*,

*It Is Ordered That:*

1. The application of Tri-Valley Water Supply, Inc. concerning the transfer of control resulting from the proposed sale of stock is hereby tentatively approved as in the public interest.
2. A copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comment or request oral hearing.
3. Absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication pursuant to Ordering Paragraph No. 2, this Tentative Order shall become final without further order of the Commission.
4. Upon this Tentative Order becoming final pursuant to the provisions of Ordering Paragraph No. 3, the Secretary shall issue to Tri-Valley Water Supply, Inc. a certificate of public convenience consistent with ordering Paragraph No. 1.

5. Within 30 days of the entry date of this tentative order, Tri-Valley Water Supply, Inc. file amended annual reports for the years 1998, 1999 and 2000, as well as its 2001 Annual Report.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1930. Filed for public inspection October 25, 2002, 9:00 a.m.]

### **Tentative Order**

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson, statement follows; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick, statement dissenting in part follows; Kim Pizzingrilli

*Application of Williams Moving & Storage, Inc., for the transfer of all of the operating right(s) of B & B Systems, Inc. t/d/b/a Tosh Moving & Storage, Inc., under the certificate issued at A-00105085, F. 2, subject to the same limitations and conditions; Doc. No. A-00119007; F. 2*

Wick, Streiff, Meyer, O'Boyle & Szeligo, P.C. by Henry M. Wick, Jr. for the applicant

### **Tentative Order**

*By the Commission:*

This matter comes before the Commission on an application filed May 24, 2002. Public notice of the application was given in the *Pennsylvania Bulletin* of August 4, 2002. The unopposed application is certified to the Commission for its decision without oral hearing.

### *Discussion and Findings*

Williams Moving & Storage, Inc. (applicant, transferee or Williams) seeks to acquire all the household goods in use rights from B & B Systems, Inc. t/d/b/a Tosh Moving & Storage, Inc. Applicant is currently certificated to transport property, excluding household goods in use, between points in Pennsylvania. Transferee will operate from facilities located at 740 Commonwealth Drive, Warrendale, Butler County. Communications will be by regular telephone. Williams will utilize two straight trucks and two trailers. A comprehensive safety and maintenance program is in effect.

The balance sheet of the transferee as of April 25, 2002, shows current and total assets of \$1,000, no liabilities, for total owner's equity of \$1,000.

The total consideration for the right(s) is \$2,000.

A review of the record before us indicates that the applicant possesses the requisite experience and equipment to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing need, which may be overcome only by evidence to the contrary. In re: *Byerly*, 440 Pa. 521 (1970); *Hostetter v. Pa. P.U.C.*, 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.

2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; *Therefore,*

*It Is Ordered:* That the transfer application be and is hereby tentatively approved granting the following right(s):

To transport, as a common carrier, household goods, in use:

(1) Between points in the borough of Freedom, Beaver County, and within 40 miles by the usually traveled highways, of the limits of the said borough.

(2) From points in the County of Beaver, to other points in Pennsylvania, and vice versa.

subject to the following general conditions:

1. That the operating authority granted herein, or now held, or subsequently granted to the applicant to the extent that it is duplicative, shall not be construed as conferring more than one operating right.

2. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or right(s) to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

3. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any other entity, without the prior filing of an application and approval thereof by the Commission under Section 1102(a)(3) of 66 Pa.C.S.A.

*It Is Further Ordered:* The applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

1. A tariff establishing just and reasonable rates.

*It Is Further Ordered:* That a copy of this Tentative Order be published in the *Pennsylvania Bulletin* giving the public 10 days from the date of publication to file written comments or request oral hearing.

*It Is Further Ordered:* That absent the filing of adverse public comment or request for oral hearing within 10 days from the date of publication, the Tentative Order shall become final without further Commission action.

*It Is Further Ordered:* That upon the Tentative Order becoming final and upon compliance with the requirements herein before set forth, a certificate shall issue evidencing the Commission's approval of the right to operate as determined.

*It Is Further Ordered:* That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

*It Is Further Ordered:* That in the event said applicant has not, on or before 60 days from the date that the Tentative Order becomes final, complied with the requirements herein before set forth, the application shall be dismissed without further proceedings.

*It Is Further Ordered:* That you must demonstrate safety fitness by completing a Safety Fitness Review. You will be contacted by the Commission's Bureau of Transportation and Safety, which will schedule a review to be

completed within 180 days of the date your certificate is issued. Failure to submit to a Safety Fitness Review or to attain a satisfactory evaluation may result in cancellation of the certificate.

*It Is Further Ordered:* That upon compliance with this tentative order, the right(s) granted the transferor, B & B Systems, Inc. t/d/b/a Tosh Moving & Storage, Inc. at A-00105085, F. 2 be canceled and the record be marked "closed."

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1931. Filed for public inspection October 25, 2002, 9:00 a.m.]

### Tentative Order Statements

*(Editor's Note:* The following statements from Commissioners Glen R. Thomas and Terrance J. Fitzpatrick apply to the Tentative Orders that are printed at 32 Pa.B. (October 26, 2002).)

Public Meeting held  
October 10, 2002

Application of Suburban  
Emergency Medical Ser-  
vices, Easton, Northampton  
County, for the right to be-  
gin to transport, as a com-  
mon carrier, by motor ve-  
hicle, persons in  
paratransit service

OCT-2002-TSM-0146 2ndR\*  
Doc. No. A-00118866

Application of Heritage  
Hills Associates t/d/b/a  
Heritage Hills Golf Resort  
& Conference Center, York,  
York County, for the right  
to begin to transport, as a  
common carrier, by motor  
vehicle, persons in limou-  
sine service

OCT-2002-TSM-0153 2ndR\*  
Doc. No. A-00119000

Application of McNaughton  
Latrobe Moving, Inc. (ap-  
plied as Mark S. Williams  
and has since incorporated),  
Indiana County for the  
transfer to applicant of all  
of the common carrier  
rights held by Latrobe Mov-  
ing and Storage Company  
at A-00116154, F. 1.

OCT-2002-TSM-0158 R\*  
Doc. No. A-00119133

Application of Anderson  
Transfer, Inc., Washington  
County, for the approval of  
the transfer to applicant of  
all of the common carrier  
rights held by James M.  
Gegan t/d/b/a Waynesburg  
Moving and Storage Com-  
pany at A-00107906

OCT-2002-TSM-0159 R\*  
Doc. No. A-00109593,  
F. 1, Am-B

Application of Robert Link t/d/b/a B. & K. Moving, Havertown, Delaware County, for the approval of the transfer to applicant of all of the common carrier rights held by Douglas Kriebal t/d/b/a Duble & Kriebel at A-00103060, F. 1.

Application of Glen & Gwen Transportation, Inc. t/d/b/a A. J. Taxi, Tunkhannock, Wyoming County, for approval of the transfer to applicant of all of the common carrier paratransit right held by Gerald E. Sands t/d/b/a A.J. Taxi at A-00110392, F. 1.

Application of Williams Moving & Storage, Inc., Warrendale, Butler County, for the approval of the transfer to applicant of all of the common carrier household goods in use rights held by B & B Systems, Inc. t/d/b/a Tosh Moving & Storage, Inc. at A-00105085, F. 2

Applications filed on April 14, 2002, by Broadview NP Acquisition Corporation d/b/a Broadview Net Plus for approval to offer, render, furnish or supply telecommunications services as a Facilities-based Interexchange Carrier, and a Competitive Access Provider to the public in the Commonwealth of Pennsylvania

Application filed on May 21, 2001, by Access Network Service, Inc., seeking approval of the Company's Abandonment of the Certificate of Public Convenience

Application filed July 17, 2002, by Quintelco, Inc., seeking approval of the Company's Abandonment of the Certificate of Public Convenience

Application filed March 7, 2002 by Pennsylvania Suburban Water Company for approval to begin to offer, render, furnish or supply domestic water service to the public in portions of Centre and Bern Townships, Berks County, PA

OCT-2002-TSM-0160 R\*  
Doc. No. A-00119130

OCT-2002-TSM-0161 R\*  
Doc. No. A-00118924, F. 2

OCT-2002-TSM-0162 R\*  
Doc. No. A-00119007, F. 2

OCT-2002-FUS-0466 R\*  
Doc. Nos. A-311188  
A-311188F002  
A-311188F003

OCT-2002-FUS-0470 R\*  
Doc. No. A-310342F2000

OCT-2002-FUS-0481 R\*  
Doc. No. A-310582F2000

OCT-2002-FUS-0849 R\*  
Doc. No. A-210104F0014

Application filed June 19, 2002 by Pennsylvania Suburban Water Company for approval of 1) the acquisition by Suburban of the water system assets of D.L.W.B. Water Systems, Inc., and 2) the right of Suburban to begin to offer, render, furnish or supply water service to the public in portions of Deer Lake Borough and West Brunswick Township in Schuylkill County, PA

Joint Application filed June 24, 2002, by Pennsylvania Suburban Water Company and White Rock Water Corporation for approval of 1) the acquisition by Suburban of the water system assets of White Rock, 2) the right of Suburban to begin to offer, render, furnish or supply water service to the public in portions of Monroe and South Middleton Townships, Cumberland County, PA, 3) the right of White Rock to abandon water service and 4) the right of Suburban to abandon water service in South Middleton Township

Application of Kenneth Songer d/b/a Corsica Gas Company filed May 31, 2002, for approval of Certificate of Public Convenience to supply natural gas service in Union and Eldred Townships, Jefferson County, PA

Application filed on March 29, 2002, by Tri-Valley Water Supply, Inc. for approval of the transfer of control of the Utility from the majority owners to their son

Application filed on August 1, 2002, by Budget Phone, Inc. for approval to offer, render, furnish or supply telecommunications services as a reseller of Interexchange (IXC) Toll Services

Joint Application of ITC/DeltaCom Communications, Inc. and its Indirect Parent, ITC/DeltaCom, Inc. for approval of a Change in Indirect Control of the Former

OCT-2002-FUS-0869 R\*  
Doc. No. A-210104F0018

OCT-2002-FUS-0870 R\*  
Doc. Nos. A-210104F0019  
A-213440F2000  
A-210104F2002

OCT-2002-FUS-1088 R\*  
Doc. No. A-125115

OCT-2002-FUS-1401 R\*  
Doc. No. A-211890F5000

OCT-2002-FUS-1410 R\*  
Doc. No. A-311159F0002

OCT-2002-FUS-1411\*  
Doc. No. A-310467F0003

### Statement of Chairperson Glen R. Thomas

On September 18, 2002, the Commonwealth Court issued a 2-1 decision in *Chester Water Authority v. Pennsylvania Public Utility Commission*. No. 2967 C.D. 2001. The case involved an application by the Philadelphia Suburban Water Company ("PSW")<sup>7</sup> for a certificate of public convenience to provide water service in a portion of Thornbury, Delaware County. The Court held that the Commission properly granted PSW's motion for judgment on the pleadings, dismissing the protest of the Chester Water Authority. Nevertheless, the Court sua sponte found that the Commission "abused its discretion by granting PSW's application for a certificate of public convenience without conducting a public hearing on the application." Slip Op. at 9. The Court reasoned that a "public hearing" is required by Section 1103 of the Public Utility Code, 66 Pa.C.S. § 1103.<sup>8</sup> The decision specifies that the Commission has a statutorily mandated duty "to provide the public with an opportunity to attend and be heard." Slip Op. at 9 (emphasis in original). The Commission's order granting PSW's application for certificate of public convenience was vacated and remanded to the Commission for a public hearing.

I disagree with the Court's interpretation of Section 1103 and believe that the Commission's current process provides interested members of the public with sufficient notice and opportunity to be heard. However, I recognize that—as a practical matter—the Commission cannot sit idly by while this issue works its way through the appellate process. The Commission deals with hundreds of applications every year. The Commission has a responsibility to continue to process applications in a timely and legal fashion.

The Commission has modified its notice for new Chapter 11 applications to comply with the Court's decision.<sup>9</sup> In addition to formal protests filed by interested parties with standing,<sup>10</sup> the public will be afforded "an opportunity to attend and be heard." The public will be given both the opportunity for a "paper hearing," through the filing of written comments, and the opportunity for an oral hearing, if requested. As has always been permitted, the public may inspect and copy evidence submitted in support of an application and is free to attend Public Meetings at which applications are finally decided. While the Commission has traditionally accepted public input, this change will formalize the process and ensure that public input is given due consideration.

Recognizing that there are numerous pending applications for which the old notice has already been published, the Commission will generally provide for public hearing in one of three ways: (1) a tentative order (such as those captioned above); (2) supplemental notice soliciting written comments and requests for oral hearing; or, (3) immediately setting an oral hearing. All three options provide the public with "an opportunity to attend and be heard." Because many applications have been pending for several months, the Commission will strive to minimize the burden upon the applicants.

<sup>7</sup>The Philadelphia Suburban Water Company is now the Pennsylvania Suburban Water Company.

<sup>8</sup>Subsection (b) of Section 1103 states:

(b) *Investigations and hearings.*—For the purpose of enabling the commission to make such finding or determination, it shall hold such hearings, which shall be public, and before or after hearing, it may make such inquiries, physical examinations, valuations, and investigations, and may require such plans, specifications, and estimates of cost, as it may deem necessary or proper in enabling it to reach a finding or determination.

<sup>9</sup>66 Pa. C.S. § 1103(b).

<sup>10</sup>This action by the Commission should not be construed as a waiver of any of its appellate rights.

<sup>11</sup>Formal protests and petitions to intervene will continue to be handled in accordance with Title 52 of the *Pennsylvania Code*.

We, as public servants, have an absolute duty to uphold the law—even if we disagree with how the judicial branch has interpreted it. We cannot simply ignore a court decision in hopes that no one will appeal a Commission order. Nor should we attempt to come up with convoluted legal theories to circumvent the law. The law is the law—until it is changed.<sup>11</sup>

I am pleased that the Commission has chosen to comply with the Commonwealth Court's decision until the issue is resolved on appeal. It is the right thing to do. I also wish to thank the numerous Commission staff members who have worked diligently to develop a good solution to a tough issue.

Glen R. Thomas,  
Chairperson

Application of Suburban  
Emergency Medical Ser-  
vices, Easton, Northampton  
County, for the right to be-  
gin to transport, as a com-  
mon carrier, by motor ve-  
hicle, persons in  
paratransit service, et al

OCT-2002-TSM-0146\*  
2nd REV  
A-00118866

OCT-2002-TSM-0153\*  
2nd REV  
A-00119000

OCT-2002-TSM-0158\* REV  
A-00119133

OCT-2002-TSM-0159\* REV  
A-00109593, F. 1, Am-B

OCT-2002-TSM-0160\* REV  
A-00119130

OCT-2002-TSM-0161\* REV  
A-00118924, F. 2

OCT-2002-TSM-0162\* REV  
A-00119128

OCT-2002-FUS-0466R\*  
A-311188;  
A-311188F002;  
A-311188F003

OCT-2002-FUS-0470R\*  
A-310342F2000

OCT-2002-FUS-0481R\*  
A-310582F2000

OCT-2002-FUS-0849R\*  
A-210104F0014

OCT-2002-FUS-0869R\*  
A-210104F0018

OCT-2002-FUS-0870R\*  
A-210104F0019  
A-213440F2000  
A-210104F2002

OCT-2002-FUS-1088R\*  
A-125115

OCT-2002-FUS-1401R\*  
A-211890F5000

OCT-2002-FUS-1410R\*  
A-311159F0002

OCT-2002-FUS-1411\*  
A-310467F0003

<sup>5</sup>I note that the Commission does not have a stay of the *Chester Water Authority* decision. Even if the Commission had a stay of this particular case, other similar cases would certainly follow.

**Statement of Commissioner  
Terrance J. Fitzpatrick**

**Concurring in Part and Dissenting in Part**

The above-referenced matters all involve unopposed applications for certificates of public convenience pursuant to § 1103 of the Public Utility Code, 66 Pa.C.S. § 1103. I agree with the actions of the majority on these matters to the extent that they grant the Applications, but I do not agree with these actions to the extent that:

- 1) the decisions are made via Tentative Orders, rather than Final Orders;
- 2) the Tentative Orders will be published in the *Pennsylvania Bulletin*; and
- 3) the public is given an additional ten-day period to file written comments or to request an "oral hearing."

Accordingly, I respectfully dissent in part.

The additional procedures outlined above are being implemented in an attempt to follow the decision of the Commonwealth Court in *Chester Water Authority v. PA Public Utility Commission*, 2967 C.D. 2001, Opinion and Order filed September 18, 2002. In this decision, a divided panel of the Court (President Judge Colins dissenting) held that the Commission erred by not holding a hearing and not requiring an applicant to submit evidence before granting a certificate of public convenience. The Commission has filed a Petition for Reargument and a request for expedited treatment in Commonwealth Court. In the event that the Court denies this Petition, the Commission will almost surely file a Petition for Allowance of Appeal with the Supreme Court of Pennsylvania. When the latter Petition is filed, an automatic stay of Commonwealth Court's decision would take effect pursuant to the Pennsylvania Rules of Appellate Procedure, Rule 1736(b).

The majority's decision to implement these generic changes in the Commission's procedures is based upon the belief that the Commission has no choice but to do so in light of the recent *Chester Water Authority* decision. I agree that in the absence of a stay, the Commission has a clear legal duty to follow the Court's decision as to the facts and parties involved in that case. However, whether the Commission has an absolute legal duty to apply the Court's decision to other cases presents a different question—whether the Commission must immediately begin to treat the Court's decision as a binding precedent under the principle of stare decisis.

The principle of stare decisis is a "principle of policy" rather than "an inexorable command." *Hohn v. United States*, 524 U.S. 236, 259, 118 S. Ct. 1969, 1977, 141 L. Ed. 2d 242 (1998). The purpose of the principle is to promote stability and protection of property rights so that a principle declared in a judicial decision "... especially by a court of last resort ... should be considered as settled and closed to further argument." 21 C.J.S. Courts § 140 (1990). Also, the Supreme Court of Pennsylvania has stated that:

[T]he policy considerations supporting stare decisis are less compelling when the issue involves a question of procedure. See *Hohn v. United States*, 524 U.S. 236, 259, 118 S. Ct. 1969, 1977, 141 L. Ed. 2d 242 (1998) ("The role of stare decisis ... is ... reduced in the case of a procedural rule which does not serve as a guide to lawful behavior.")

*Commonwealth v. Persichini*, 558 Pa. 449, 737 A.2d 1208, 1212 (1999).

In light of the above principles, it is clear that the Commission is not legally compelled to initiate—on its own motion—generic changes to its procedures during the period that the *Chester Water Authority* case is before the appellate courts of Pennsylvania. Caselaw establishes that stare decisis is not "an inexorable command" and that it does not apply with equal force when a procedural rule is involved.<sup>12</sup> Moreover, the decision of the majority to initiate generic changes in the Commission's procedures without awaiting the ultimate resolution of this issue in the appellate courts does not promote stability—one of the policies underlying stare decisis. To the contrary, the hasty decision to change these procedures creates a risk that the changes will have to be undone in the near future—causing confusion among applicants and the public, and wasting the time and effort of our staff.

In a nutshell, the decision of the majority to change these procedures now is unnecessary and impractical.

Alternatively, assuming arguendo, that the Commission has a legal duty to make sweeping changes to its procedures based upon the *Chester Water Authority* decision, the changes implemented here do not comport with that decision. The Tentative Orders give the public the right to file comments or to request an "oral hearing." The majority does not define "oral hearing," but it is my understanding that this hearing is intended to be a perfunctory one in which members of the public can state their views, but is not intended to be a full-blown evidentiary hearing in which the applicant presents its witnesses, cross-examination is permitted, etc.

This type of perfunctory hearing does not comply with the plain language of the *Chester Water Authority* decision, which chided the Commission for not "taking evidence," and, more specifically, for not "require[ing] the applicant to submit evidence in support of the application." (Slip Opinion at pp. 6, 9) This point is also buttressed by the Court's reliance upon its decision in *In Re: Petition of the Board of School Directors of the Hampton Township School District*, 688 A.2d 279 (Pa. Cmwlth. 1997). The Court made clear in the latter case that its concept of a hearing was one in which members of the public had a right to cross-examine witnesses for the opposing party and to offer evidence in support of their position. 688 A.2d 280, 281. The "oral hearing" contemplated in the Tentative Order does not meet these requirements.

In summary, I dissent in part because the generic changes in the Commission's procedures reflected in these orders are unnecessary and impractical. Alternatively, assuming arguendo that the Commission is legally obligated to alter its procedures immediately, I do not believe that the procedure in these orders follows the *Chester Water Authority* decision.

Terrance J. Fitzpatrick  
Commissioner

[Pa.B. Doc. No. 02-1932. Filed for public inspection October 25, 2002, 9:00 a.m.]

<sup>12</sup>I recognize that in the normal case, the Commission would treat a Commonwealth Court decision as precedent while it remains subject to review in the appellate courts. I have voted to follow a Commonwealth Court decision in this situation even though I disagreed with the manner in which the Court resolved an issue. *Petition of Pike County Power and Light Co.*, Docket No. P-00011872 (dissenting statement dated March 28, 2002) (following *ARIPPA v. Pa. PUC*, 792 A.2d 636 (Pa. Cmwlth. 2002)). This case is different because of the practical difficulties involved in initiating across-the-board changes to the Commission's procedures when there is a substantial possibility that these changes may need to be undone within a short time.

## Water Service Order on Reconsideration

Public Meeting held  
October 10, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr., recusal statement follows; Terrance J. Fitzpatrick, dissenting statement follows; Kim Pizzigrilli

*Application of Pennsylvania Suburban Water Company for approval to begin to offer, render, furnish or supply water service to the public in an additional portion of Thornbury Township, Delaware County; Doc. No. A-210104F0016*

### Order on Reconsideration

*By the Commission:*

On September 12, 2002, the Commission entered an order at this docket dismissing a protest filed by the Chester Water Authority (CWA). The Commission's dismissal of CWA's protest was based upon a motion for judgment on the pleadings filed by Pennsylvania Suburban Water Company (PSWC). The Commission's order concomitantly approved the application of PSWC for a certificate of public convenience to provide water service to an additional portion of Thornbury Township, in Delaware County.

On September 18, 2002, Commonwealth Court issued an Opinion and Order at 2967 C.D. 2001 remanding to the Commission our Order entered December 10, 2001, at Docket No. A-212370F0065, also involving proposed service by PSWC to Thornbury Township, Delaware County. The Court's remand order in the related case effectively requires the Commission to hold hearings on Chapter 11 applications. Accordingly, we shall expressly reconsider our Order entered September 12, 2002, at this docket; *Therefore,*

*It Is Ordered That:*

1. The Commission's Order entered September 12, 2002, at this docket shall be reconsidered.
2. Notice of this application shall be republished in the *Pennsylvania Bulletin*, with a 10-day comment period, soliciting public comment and requests for oral hearing.
3. This matter shall be reassigned to the Office of Administrative Law Judge for oral hearing, if requested.
4. The instant application for a certificate of public convenience be approved without further order of the Commission if no public comment or request for oral hearing is timely received.
5. A Copy of this Order be served upon Pennsylvania Suburban Water Company, Township Supervisors of Thornbury Township, Office of Trial Staff and any persons or parties who have filed protests against the Application.

JAMES J. MCNULTY,  
*Secretary*

### Dissenting Statement of Commissioner Terrance J. Fitzpatrick

This case involves an Application for a Certificate of Public Convenience filed by Pennsylvania Suburban Water Company ("PSWC"). On September 12, 2002, the Commission entered an Order granting the Application and dismissing a Protest filed by the Chester Water Authority. A majority of the Commission now adopts a

staff recommendation that the Commission, on its own Motion, reconsider the Order granting the Certificate, re-publish notice of the Application in the *Pennsylvania Bulletin* and solicit comments or requests for an "oral hearing," and reassign this matter to the Office of Administrative Law Judge if an oral hearing is requested. I respectfully dissent.

While the Order adopted by the majority does not so state, the action taken in this Order appears to be based upon 66 Pa.C.S. § 703(f) or (g). I note that § 703 does not expressly authorize the granting of "reconsideration." This raises the question whether the Commission's action granting reconsideration is pursuant to subsection (f), entitled "Rehearing" or to subsection (g), entitled "Rescission and amendment of orders." To the extent that the grant of reconsideration is intended to be a grant of "rehearing," I believe this action is flawed in that it is not based upon an allegation that "new evidence" exists. See *West Penn Power Company v. PA PUC*, 659 A.2d 1055 (Pa. Cmwlth. 1995).

Commonwealth Court has equated a Commission Order granting reconsideration with an Order that rescinds and amends a prior Order. *West Penn Power, supra, Abramson v. PA PUC*, 489 Pa. 267, 414 A.2d 60 (1980). It is my understanding that the Order granting reconsideration in the present case is not intended to rescind the Commission's prior Order, because if it did, it would violate § 703(g) in that the Commission did not provide "notice" and an "opportunity to be heard" as required in that subsection.

Accordingly, I do not believe that the Order granting reconsideration is authorized under § 703(f) or (g) of the Public Utility Code.

In the alternative, assuming for the sake of argument that the present Order is authorized under § 703 of the Public Utility Code, I dissent for the reasons contained in my Statement with respect to OCT-2002-TSM-0146 2nd REV\*, et al.

### Recusal of Commissioner Aaron Wilson, Jr.

I wish to be recused from consideration of this matter consistent with my prior role as Mayor of the City of Chester.

[Pa.B. Doc. No. 02-1933. Filed for public inspection October 25, 2002, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #02-103.1, Overlay Paving at South Apron, Pier 80 South, until 2 p.m. on Thursday, November 14, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available October 29, 2002. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable



equal opportunity laws and regulations. Mandatory pre-bid job site meeting will be held November 7, 2002, 10 a.m. at Pier 80 South, Columbus Blvd. and Snyder Ave. (enter the pier one block north of Snyder Ave.), Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 02-1934. Filed for public inspection October 25, 2002, 9:00 a.m.]

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## STATE BOARD FOR CERTIFICATION OF WATER AND WASTEWATER SYSTEMS OPERATORS

### 2003 Examination Announcement

#### *Examination Dates:*

February 22, 2003—Applications must be received, complete and correct, no later than December 9, 2002.

April 26, 2003—Applications must be received, complete and correct, no later than February 10, 2003.

August 2, 2003—Applications must be received, complete and correct, no later than May 19, 2003.

November 1, 2003—Applications must be received, complete and correct, no later than August 18, 2003.

Applications may be obtained from, and must be returned to, the Department of Environmental Protection, Certification and Licensing, P. O. Box 8454, 400 Market Street, 2nd Floor, Rachel Carson State Office Building, Harrisburg PA, 17105-8454, (717) 787-5236. Information is also available from [www.dep.state.pa.us/dep/deputate/waterops](http://www.dep.state.pa.us/dep/deputate/waterops). Applications must be returned by the established cutoff dates stated previously (not postmarked). Information regarding the certification examination can be obtained by contacting the previous address and telephone number.

Persons with a disability who require an accommodation to take the water or wastewater systems operator exam should contact the State Board for Certification of Water and Wastewater Systems Operators (Board) at (717) 787-5236 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD), before the examination cutoff date, to discuss how the Board may accommodate their needs.

KATHY W. KEYES,  
*Secretary*

[Pa.B. Doc. No. 02-1935. Filed for public inspection October 25, 2002, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

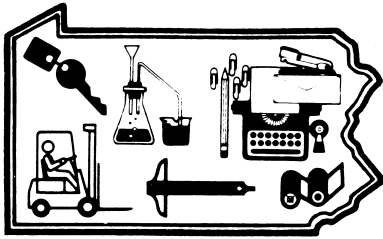
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, *"Frequently Asked Questions About State Contracts,"* explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room G13 Finance Building  
 Harrisburg, PA 17120  
 717-787-2990  
 1-800-252-4700

BARBARA HAFER,  
*State Treasurer*



Commodities

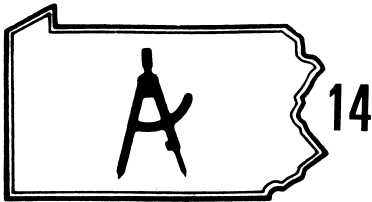
**20976006** Furnish all labor, tools and supervision to replace stub stacks, miscellaneous materials, equipment appliances and performing all operations for the installation of new stub stacks on Boilers #1, #2 and #3 at POLK CENTER, Polk, PA. SITE VISIT IS REQUIRED.

**Department:** Public Welfare  
**Location:** POLK CENTER, P. O. Box 94, Polk, PA 16342  
**Duration:** January 1, 2003—June 30, 2003  
**Contact:** Patty Frank, Purchasing Agent, (814) 432-0229

**#100202** 1) Ergolift mobile electric battery operated lifters complete with built in battery operated, lifters complete with built-in battery charger, safety features for energy down, anti-sway, back-up controls. Includes in-services for staff and training materials.....2 ea. (West 1 Building) 2) Six Strap Hammock Sling; Size Medium.....20 ea. 3) Six Strap Hammock Sling; Size Small.....20 ea. 4) Digital Scale Factory Mounted to one of the above lifts...1 ea.

**Department:** Public Welfare  
**Location:** Ebensburg Center, 4501 Admiral Perry Highway, Rt. 22 West, P. O. Box 600, Ebensburg, PA 15931  
**Contact:** Marilyn Cartwright, Purchasing Agent 3, (814) 472-0259

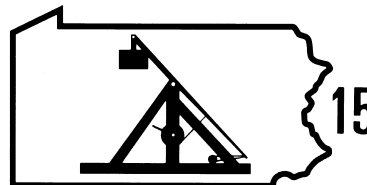
## SERVICES



Engineering Services

**PennDOT-ECMS** The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at [www.dot2.state.pa.us](http://www.dot2.state.pa.us).

**Department:** Transportation  
**Location:** Various  
**Contact:** [www.dot2.state.pa.us](http://www.dot2.state.pa.us)



Environmental Maintenance Service

**BF 406-101.1** Abandoned Mine Land Reclamation Project, Pengrove Coal Company—Haney Site, Mining Permit No. 10820115. The intent of this project is to improve the water quality of existing acid mine drainage discharges by constructing a passive treatment system. The principle items of work and approximate quantities are: VFR pond construction; 3 H-Flumes; construction of stabilization pond, flushing pond, settling pond/wetland and drinking water pond; 1,200 c.y. ditch excavation; 1,700 s.y. rock lining; 1,500 l.f. access roads; 4 acre seeding; 1,500 l.f. right-of-way fence; and 1,800 c.y. impervious soil lining. This project issues October 25 2002; payment in the amount of \$10.00 must be received before bid documents will be sent.

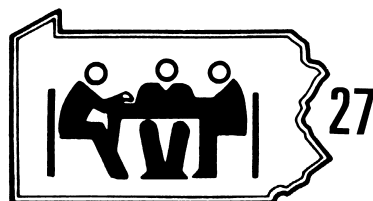
**Department:** Environmental Protection  
**Location:** Venango Township, Butler County  
**Duration:** 180 calendar days after notice to proceed  
**Contact:** Construction Contracts Section, (717) 783-7994



### Financial and Insurance Consulting

**02-115-2595** The Pennsylvania Turnpike Commission is seeking qualified organizations to provide Workers Compensation and Commercial Liability Recovery Services for the Commissions Owner Controlled Insurance Programs (OCIP), also known as a Wrap Up Insurance Program. The Commission is seeking to assess if additional savings can be realized through review and audit of premiums paid and claims filed for cost overcharges for the OCIP (Wrap-Up) programs. Copies of the RFP can be obtained by calling 717-939-9551, extension 6210 or email [gpnennick@paturndpike.com](mailto:gpnennick@paturndpike.com). There will not be a pre-proposal meeting for this RFP. Written questions pertaining to the RFP must be submitted to Gary W. Pennick, by November 1, 2002. Closing date for receipt of proposals is by 3:30 p.m. on November 18, 2002.

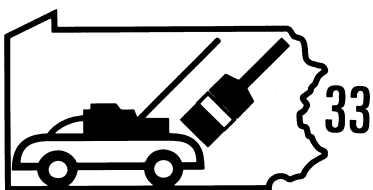
**Department:** Turnpike Commission  
**Location:** PTC Central Office, Highspire, PA  
**Duration:** January 1, 2003—May 31, 2003  
**Contact:** Gary W. Pennick, (717) 939-9551 ext. 6210



### Lodging/Meeting Facilities

**SP3520028580** Provide lodging, meeting rooms and meals for a 2-day meeting to be held in March, 2003, for approximately 300 attendees for the Department of Environmental Protection, Bureau of Program Integration and Effectiveness' meeting of eFACTS Users.

**Department:** Environmental Protection  
**Location:** Within a 20-mile radius of the Capitol Complex, Harrisburg, PA.  
**Duration:** Through 4/30/03  
**Contact:** Sherry Morrow, (717) 772-1216



### Property Maintenance

**8547** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Bedford Station. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Bedford Station, 10565 Lincoln Highway, Everett, PA 15537-7047  
**Duration:** 12/1/02 to 6/30/05  
**Contact:** Donna Enders, (717) 705-5951

**8548** Furnish all labor, materials and equipment for snow removal services from the driveways and parking areas as required at the PA State Police, Hazleton Aviation facility. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Hazleton Aviation Patrol Unit II, Hazleton Municipal Airport, Hazleton, PA 18201  
**Duration:** 12/1/02 to 6/30/04  
**Contact:** Donna Enders, (717) 705-5951

**8549** Furnish all labor, materials and equipment for snow removal services from the sidewalks, driveways and parking areas as required at the PA State Police, York Station. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** York Station, 110 North Street, York, PA 17403  
**Duration:** 12/1/02 to 6/30/04  
**Contact:** Donna Enders, (717) 705-5951

**8550** Furnish all labor, materials and equipment for snow removal services from the sidewalks, driveways and parking areas as required at the PA State Police, Huntingdon Station. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

**Department:** State Police  
**Location:** Huntingdon Station, R.D. #1, Box 10A, Huntingdon, PA 16652  
**Duration:** 12/1/02 to 6/30/05  
**Contact:** Donna Enders, (717) 705-5951

**8540** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Dunmore Headquarters. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Dunmore Headquarters, 85 Keystone Industrial Park, Dunmore, PA 18512-0159  
**Duration:** 12/1/02 to 6/30/04  
**Contact:** Donna Enders, (717) 705-5951

**8545** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Greensburg Headquarters and Crime Lab. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Greensburg Headquarters and Crime Lab, 100 North Westmoreland Avenue, Greensburg, PA 15601-0436  
**Duration:** 12/1/02 to 6/30/04  
**Contact:** Donna Enders, (717) 705-5951

**8546** Furnish all labor, materials and equipment for snow removal services from driveways and parking areas as required at the PA State Police, Indiana Station. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Indiana Station, 4221 Route 286 Highway West, Indiana, PA 15701  
**Duration:** 12/1/02 to 6/30/04  
**Contact:** Donna Enders, (717) 705-5951

**8541** Furnish all labor, materials and equipment for snow removal services from sidewalks, steps, driveways and parking areas as required at the PA State Police, Philadelphia Headquarters. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Philadelphia Headquarters, 2201 Belmont Avenue, Philadelphia, PA 19131  
**Duration:** 12/1/02 to 6/30/05  
**Contact:** Donna Enders, (717) 705-5951

**8543** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Ridgway Station. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Ridgway Station, 15010 Boot Jack Road, Ridgway, PA 15853  
**Duration:** 12/1/02 to 6/30/04  
**Contact:** Donna Enders, (717) 705-5951

**8544** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Mercer Station. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Mercer Station, 826 Franklin Road, Mercer, PA 16137  
**Duration:** 12/1/02 to 6/30/05  
**Contact:** Donna Enders, (717) 705-5951

**8542** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, DuBois Station. Totals are based on estimated snow removal and salting/cidering hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** DuBois Station, 101 Preston Way, Falls Creek, PA 15840  
**Duration:** 12/1/02 to 6/30/04  
**Contact:** Donna Enders, (717) 705-5951

**8536** Furnish all labor, materials and equipment to remove snow, salting and cidering from the sidewalks, driveways and parking areas, as required at the PA State Police, Rockview Station. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Rockview Station, 745 South Eagle Valley Road, Bellefonte, PA 16823  
**Duration:** 12/1/02 to 6/30/05  
**Contact:** Donna Enders, (717) 705-5951

**8537** Furnish all labor, materials and equipment to remove snow, salting and cindering from the driveways and parking areas, as required at the PA State Police, Northwest Training Center. Detailed Work Schedule and Request for Quote must be obtained from Facility Management, (717) 705-5951.

**Department:** State Police  
**Location:** Northwest Training Center, 195 Valley View Drive, R.D. #3, Box 785-D, Meadville, PA 16335  
**Duration:** 12/1/02 to 6/30/05  
**Contact:** Donna Enders, (717) 705-5951

**8538** Furnish all labor, materials and equipment to remove snow, salting and cindering from the sidewalks, driveways and parking areas, as required at the PA State Police, Lima Crime Lab. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

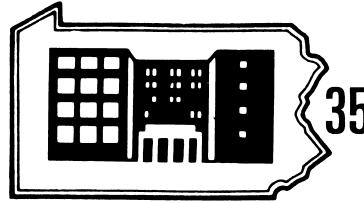
**Department:** State Police  
**Location:** Lima Crime Laboratory, 350 N. Middletown Road, Media, PA 19063-5592  
**Duration:** 12/1/02 to 6/30/05  
**Contact:** Donna Enders, (717) 705-5951

**8535** Furnish all labor, materials and equipment to remove snow, salting and cindering from the sidewalks, driveways and parking areas, as required at the PA State Police, Honesdale Station. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Honesdale Station, RR #6, Box 6822, Honesdale, PA 18431-9681  
**Duration:** 12/1/02 to 6/30/05  
**Contact:** Donna Enders, (717) 705-5951

**8539** Furnish all labor, materials and equipment for snow removal services from driveways and parking areas on an "ON CALL" basis at the PA State Police, Department Headquarters, Harrisburg, PA 17110. The awarded vendor will provide backup and/or additional snow removal equipment and manpower as needed. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

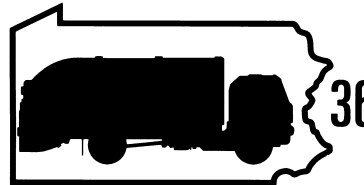
**Department:** State Police  
**Location:** Department Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110  
**Duration:** 12/1/02 to 6/30/03  
**Contact:** Donna Enders, (717) 705-5951



### Real Estate Services

**93492** STATE-OWNED REAL ESTATE FOR SALE TREVOSE PA STATE POLICE BARRACKS The Department of General Services will accept bids for the purchase of 15 acres of property and one building located at the northwest intersection of Neshaminy Boulevard and New Road, Bensalem Township, Bucks County. Bids are due on December 5, 2002. Interested parties wishing to receive a copy of solicitation #93492 should view the Department of General Services' website at [ww.wdgs.state.pa.us](http://ww.wdgs.state.pa.us), or for more information please call 717-705-5764.

**Department:** General Services  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Contact:** Bradley J. Swartz, (717) 705-5764



### Sanitation

**201025** Removal and disposal of residual sandblast abrasive. Estimated quantities of 260 ton per year.

**Department:** Transportation  
**Location:** 6 miles East of Emporium, PA on SR 120  
**Duration:** 1 year with option of renewals  
**Contact:** Sharon Baughman, (814) 486-3727

[Pa.B. Doc. No. 02-1936. Filed for public inspection October 25, 2002, 9:00 a.m.]

## DESCRIPTION OF LEGEND

- |  |   |
|--|---|
| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

KELLY POWELL LOGAN,  
*Secretary*

**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract No.</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
4500007862	10/14/02	Galls	\$50,725.00
1030152-01	10/14/02	JAF Enterprises	24,935.00
8254220-01	10/14/02	Allenwood Rental/ Supply	21,112.00

KELLY POWELL LOGAN,  
*Secretary*

[Pa.B. Doc. No. 02-1937. Filed for public inspection October 25, 2002, 9:00 a.m.]





